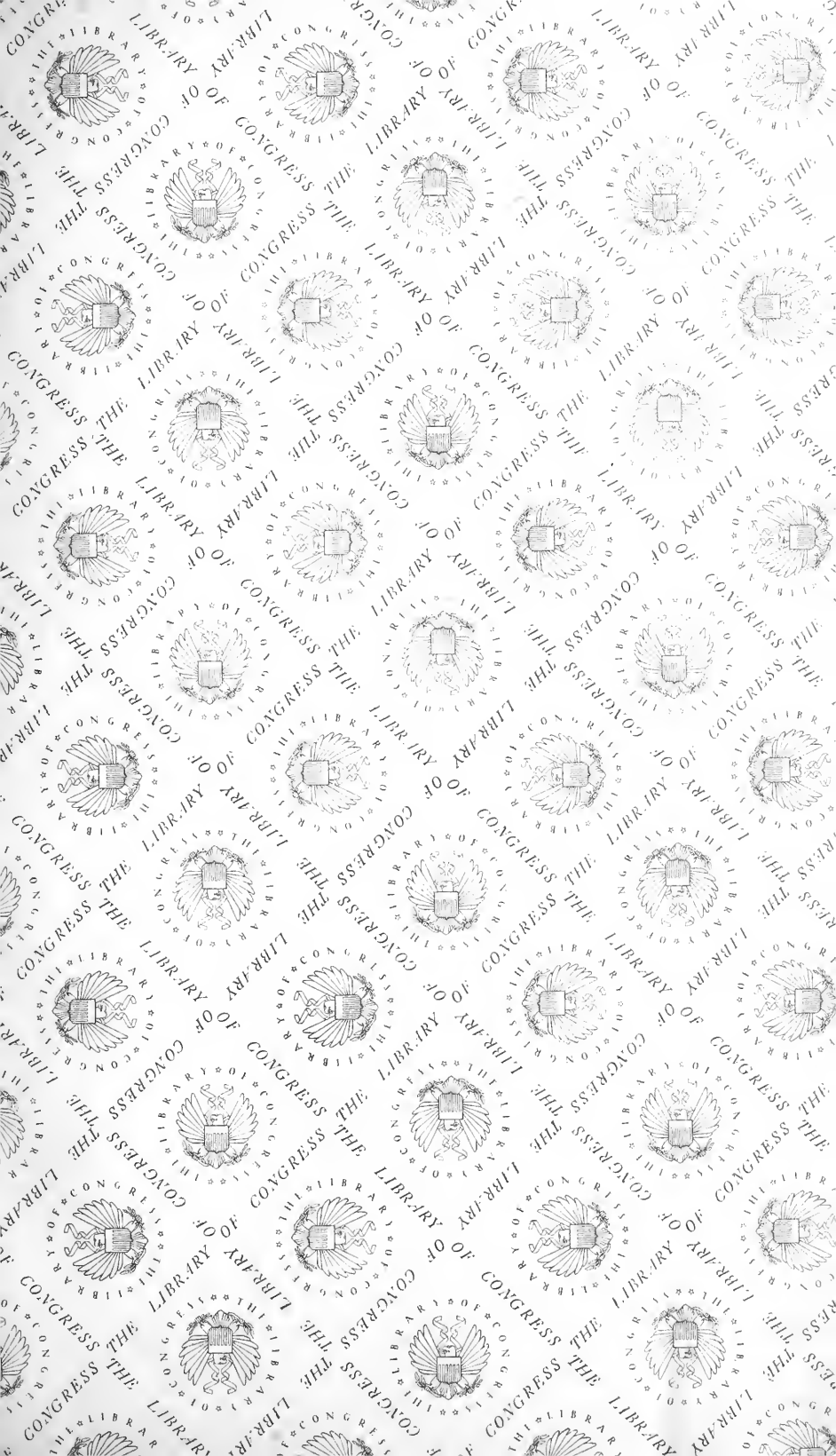


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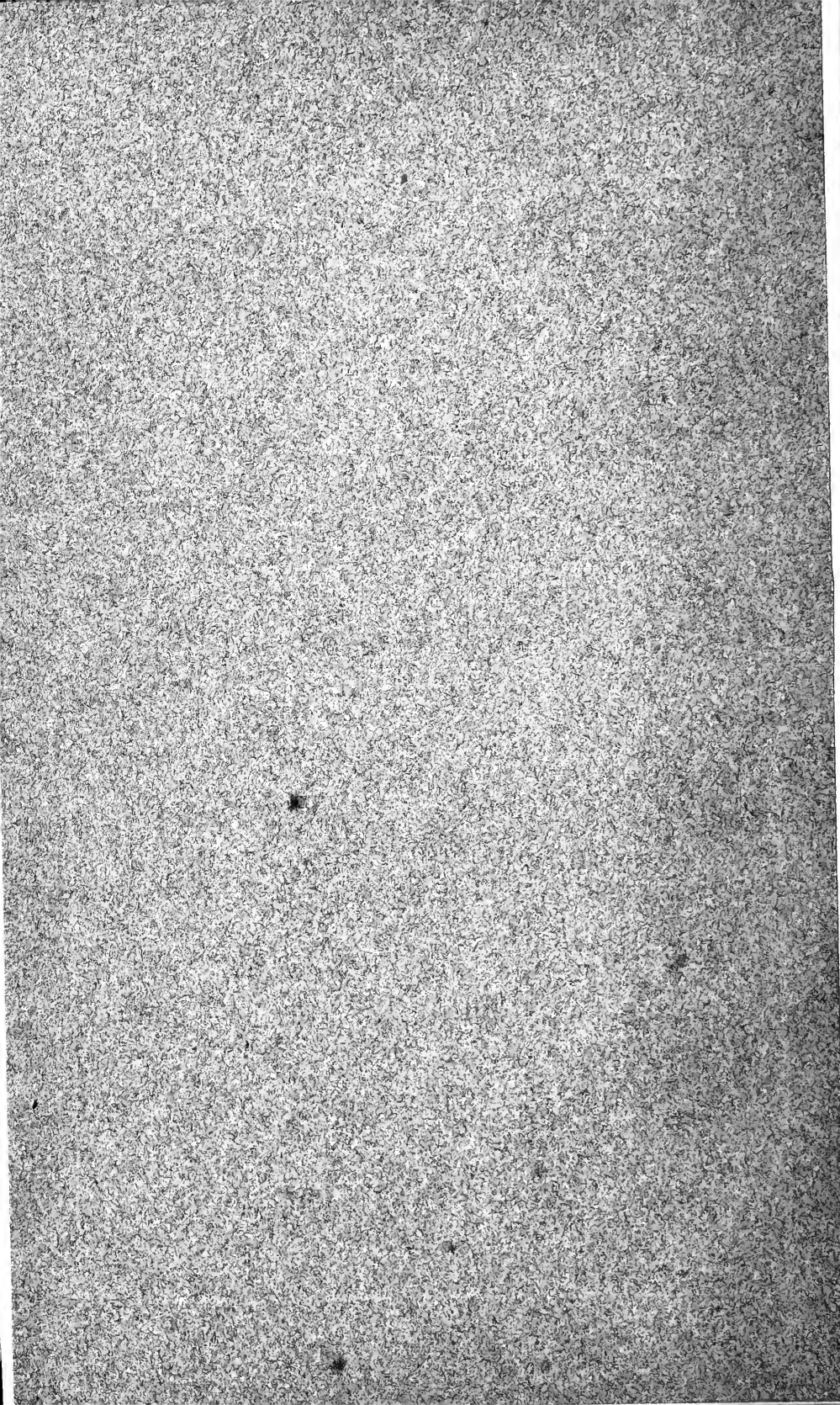


WAR DEPARTMENT . . . OFFICE OF SECRETARY

SPECIAL REPORT OF  
**WM. H. TAFT**  
Secretary of War  
TO THE PRESIDENT  
ON THE PHILIPPINES



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1908



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U.S. WAR DEPARTMENT::: OFFICE OF SECRETARY

SPECIAL REPORT OF

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WM. H. TAFT

Secretary of War

TO THE PRESIDENT

ON THE PHILIPPINES



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
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*To the Senate and House of Representatives:*

I transmit herewith the report of Secretary Taft upon his recent trip to the Philippines. I heartily concur in the recommendations he makes, and I call especial attention to the admirable work of Governor Smith and his associates. It is a subject for just national gratification that such a report as this can be made. No great civilized power has ever managed with such wisdom and disinterestedness the affairs of a people committed by the accident of war to its hands. If we had followed the advice of the misguided persons who wished us to turn the islands loose and let them suffer whatever fate might befall them, they would have already passed through a period of complete and bloody chaos, and would now undoubtedly be the possession of some other power which there is every reason to believe would not have done as we have done; that is, would not have striven to teach them how to govern themselves or to have developed them, as we have developed them, primarily in their own interests. Save only our attitude toward Cuba, I question whether there is a brighter page in the annals of international dealing between the strong and the weak than the page which tells of our doings in the Philippines. I call especial attention to the admirably clear showing made by Secretary Taft of the fact that it would have been equally ruinous if we had yielded to the desires of those who wished us to go faster in the direction of giving the Filipinos self-government, and if we had followed the policy advocated by others, who desired us simply to rule the islands without any thought at all of fitting them for self-government. The islanders have made real advances in a hopeful direction, and they have opened well with the new Philippine Assembly; they have yet a long way to travel before they will be fit for complete self-government, and for deciding, as it will then be their duty to do, whether this self-government shall be accompanied by complete independence. It will probably be a generation, it may even be longer, before this point is reached; but it is most gratifying that such substantial progress toward this as a goal has already been accomplished. We desire that it be reached at as early a date as possible for the sake of the Filipinos and for our own sake. But improperly to endeavor to hurry the time will probably mean that the goal will not be attained at all.

THEODORE ROOSEVELT.

THE WHITE HOUSE,  
*January 27, 1908.*

# SPECIAL REPORT OF THE SECRETARY OF WAR.

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WAR DEPARTMENT,  
*Washington, D. C., January 23, 1908.*

MR. PRESIDENT:

By your direction I have just visited the Philippine Islands. I sailed from Seattle September 13, last; reached Manila October 15; remained in the Islands until November 9, when I returned to the United States via Trans-Siberian Railway, reaching New York December 20. The occasion for my visit was the opening of the Philippine Assembly. The members of the Assembly were elected in July last, in accordance with the organic act of Congress, by the eligible voters of the Christian provinces of the Islands, divided into 80 districts. The Assembly becomes a branch of the legislature of the Islands coordinate with the Philippine Commission. This makes a decided change in the amount of real power which the Philippine electorate is to exercise in the control of the Islands. If justified by substantial improvement in the political conditions in the Islands, it is a monument of progress.

It is more than nine years since the battle of Manila Bay and the subsequent surrender of Manila by the Spaniards to the American forces. It is more than eight years since the exchange of ratifications of the treaty of Paris, by which the Philippine Islands passed under the sovereignty and became the property of the United States. It is more than seven years since President McKinley, by written instructions to Mr. Root, Secretary of War, committed the government of the Philippine Islands to the central control of the Philippine Commission, subject to the supervision of the Secretary of War. It is more than six years since the complete installation of a quasi civil government in the Islands, with a civil governor as executive and the Commission as a legislature, all by authority of the President as Commander in Chief of the Army and Navy. It is more than five years since the steps taken by President McKinley and yourself in establishing and maintaining a quasi civil government in the Islands were completely ratified and confirmed by the Congress in an organic act which, in effect, continued the existing government, but gave it needed powers as a really civil government that the President under constitutional limitations was unable to confer. The installation of the Assembly seems to be, therefore, an appropriate time for a precise statement of the national policy toward the people of the Philippines adopted by Mr. McKinley, continued by you, and confirmed by Congress, for an historical summary of the conditions political, social, and material, existing in the Islands when the United States became responsible for their government, and for a

review of the results of governmental measures taken to improve the conditions of law and order, the political and intellectual capacity of the people, and their sanitary and material welfare.

The policy of the United States toward the Philippines is, of course, ultimately for Congress to determine, and it is difficult to see how one Congress could bind another Congress, should the second conclude to change the policy declared by the first. But we may properly assume that after one Congress has announced a policy upon the faith of which a whole people has for some years acted and counted, good conscience would restrain subsequent Congresses from lightly changing it. For four years Congress in silence permitted Mr. McKinley and yourself, as Commanders in Chief of the Army, to adopt and carry out a policy in the Philippines, and then expressly ratified everything which you had done, and confirmed and made part of the statute certain instructions which Mr. McKinley issued for the guidance of the Philippine Commission in making civil government in the Islands. Not only this, but Congress closely followed, in the so-called organic act, your recommendations as to provisions for a future change in the Philippine government. The national policy may, therefore, be found in the course pursued and declarations made by the Chief Executives in Congressional messages and other state papers which have met the approval of Congress.

Shortly stated, the national policy is to govern the Philippine Islands for the benefit and welfare and uplifting of the people of the Islands and gradually to extend to them, as they shall show themselves fit to exercise it, a greater and greater measure of popular self-government. One of the corollaries to this proposition is that the United States in its government of the Islands will use every effort to increase the capacity of the Filipinos to exercise political power, both by general education of the densely ignorant masses and by actual practice, in partial self-government, of those whose political capacity is such that practice can benefit it without too great injury to the efficiency of government. What should be emphasized in the statement of our national policy is that we wish to prepare the Filipinos for *popular* self-government. This is plain from Mr. McKinley's letter of instructions and all of his utterances. It was not at all within his purpose or that of the Congress which made his letter part of the law of the land that we were merely to await the organization of a Philippine oligarchy or aristocracy competent to administer government and then turn the Islands over to it. On the contrary, it is plain, from all of Mr. McKinley's utterances and your own, in interpretation of our national purpose, that we are the trustees and guardians of the whole Filipino people, and peculiarly of the ignorant masses, and that our trust is not discharged until those masses are given education sufficient to know their civil rights and maintain

them against a more powerful class and safely to exercise the political franchise. This is important, in view of the claim, to which I shall hereafter refer, made by certain Filipino advocates of immediate independence under the auspices of the Boston anti-imperialists, that a satisfactory independent Philippine government could be established under a governing class of 10 per cent and a serving and obedient class of 90 per cent.

Another logical deduction from the main proposition is that when the Filipino people as a whole, show themselves reasonably fit to conduct a popular self-government, maintaining law and order and offering equal protection of the laws and civil rights to rich and poor, and desire complete independence of the United States, they shall be given it. The standard set, of course, is not that of perfection or such a governmental capacity as that of an Anglo-Saxon people, but it certainly ought to be one of such popular political capacity that complete independence in its exercise will result in progress rather than retrogression to chaos or tyranny. It should be noted, too, that the tribunal to decide whether the proper political capacity exists to justify independence is Congress and not the Philippine electorate. Aspiration for independence may well be one of the elements in the make-up of a people to show their capacity for it, but there are other qualifications quite as indispensable. The judgment of a people as to their own political capacity is not an unerring guide.

The national Philippine policy contemplates a gradual extension of popular control, *i. e.*, by steps. This was the plan indicated in Mr. McKinley's instructions. This was the method indicated in your recommendation that a popular assembly be made part of the legislature. This was evidently the view of Congress in adopting your recommendation, for the title of the act is "For the temporary government of the Philippine Islands" and is significant of a purpose or policy that the government then being established was not in permanent form, but that changes in it from time to time would be necessary.

In the historical summary of conditions in the Islands when the United States assumed responsibility for their government and the review of measures adopted by the present Philippine government to improve conditions and the results, it will be convenient to consider the whole subject under the following heads:

1. The conditions as to law and order. The way in which they have been restored and are now permanently maintained.

2. The political capacity and intellectual development of the Filipinos under Spain and the steps taken by the Philippine government for their general and political education.

3. Conditions of health under Spain. The sanitary measures under the Philippine government.

4. The material and business conditions. Progress made under present government.
5. The future of the Philippines.
6. The cost of the Philippine government to the United States.

**THE CONDITIONS AS TO LAW AND ORDER—THEIR RESTORATION  
AND PERMANENT MAINTENANCE.**

In 1896 occurred the first real insurrection against the Government of Spain in the Philippine Islands. The idea of a more liberal government than that which Spain gave the Islands had taken root in 1871 with the opening of the Suez Canal, the flocking of Spaniards to Manila, and the spread of republican doctrines that had had a short triumph in the mother country about that time. In the measures of repression which were adopted from time to time by Spanish governors-general the aid of Spanish parish priests was thought by the people to be actively enlisted in ferreting out those suspected of sedition and too liberal political views. The priests were largely from the four religious orders—the Dominicans, the Augustinians, the Franciscans, and the Recoletos. There was a considerable body of native priests also, but they were of the secular clergy, held the less desirable posts, and were hostile to the Spanish friars. Three of the religious orders held large bodies of rich agricultural lands situate, much of it, in Cavite, Laguna, Manila, Morong, Bataan, and Bulacan, all thickly populated provinces close to Manila. Their tenants numbered sixty or seventy thousand persons. The insurrection of 1896 was not only against the Spanish Government to secure a more liberal régime, but it was also for the elimination of the friars as a controlling political element in the community. It was largely confined to Cavite, Laguna, Manila, and Bulacan, where lay the large friars' estates. It had an agrarian aspect. There was much fighting, and the losses on both sides were very heavy, especially in the province of Cavite. Ultimately the drastic measures of the Spaniards drove Aguinaldo and the forces which he led out of Cavite into Bulacan and led to what was known as the treaty of Biac-na-Bató. This was an arrangement by which many of the insurrecto chiefs, including Aguinaldo, agreed, in consideration of the payment of a large sum of money, to end the insurrection and withdraw from the Islands. The money was to be paid in three installments. The first payment was made, and many of the chiefs, including Aguinaldo, withdrew from the Islands and went to Hongkong. There was much dispute as to what the agreement was, and it was strenuously insisted by each side that the other failed to comply with its stipulations. It is not material now to consider this mooted question. Suffice it to say that in 1898, when Admiral Dewey attacked the Spanish fleet in Manila Bay, the embers of dissatisfaction on the part of the former Filipino insurgents with the Spanish

Government were still aglow, and it was not difficult for Aguinaldo to raise a force of insurrectos to aid the Americans in surrounding Manila and in driving Spain from the Islands.

Between 1896 and 1898 the conditions which had been brought on by the first insurrection continued, and trade was much interrupted, agriculture did not flourish, and conditions as to the maintenance of order were by no means favorable. As an index to this, it may be said that the managers of the friars' estates collected no rents from the tenants after 1896. The battle of Manila Bay and the defeat of the Spanish fleet destroyed the prestige of Spain throughout the Islands and created insurrection in nearly every province. The refusal of General Merritt to permit Aguinaldo's troops to enter Manila created a resentment on the part of the Filipino soldiers, and the relations between the Americans and the Filipinos soon became strained. The situation was not relieved at all by the signing of the treaty at Paris, transferring the sovereignty of the islands to the Americans. Meantime, as the Americans were confined to the occupation of Manila, Aguinaldo and his military assistants attempted the organization of a government throughout the islands. A so-called constitutional convention was held at Malolos and a constitution was adopted. At the same time the Visayan republic was organized, to embrace the Visayan Islands, under certain Visayan leaders. It professed allegiance to Aguinaldo's government. Neither Aguinaldo's government nor the Visayan government was able to maintain order, and the whole country was subject to the looting of predatory bands, and chaos reigned. Where the Aguinaldo government had authority, it was exercised with military severity and with much local oppression and corruption. On the 4th of February, 1899, there was an attack by the Filipino forces surrounding Manila upon the American troops, which was successfully resisted. Later on, upon the 23d of February, there was an outbreak in Manila itself, and an attempt to burn the city, which was suppressed by the American troops with a heavy hand.

On the 11th of April the treaty ceding the Philippine Islands to the United States was ratified and ratifications exchanged. From that time until the spring of 1900 a campaign was carried on by the American forces against the regularly organized troops under Aguinaldo. Aguinaldo's forces were defeated and scattered, and then in 1900 there succeeded a guerrilla warfare in nearly every province in the Islands, which was continued with more or less vigor until July, 1902. The guerrilla warfare was carried on only because of the encouragement received by the insurrectos from speeches of the so-called "anti-imperialists" and the assurances publicly given by political leaders in the United States of immediate severance of the

relations between the Islands and the United States in case the Administration were defeated in the election. At times the warfare would seem to cease and the insurrection seem to be at an end, and then it would revive again, apparently with a view to influencing elections in America.

It can readily be inferred from this statement that from the breaking out of the insurrection in 1896, with the new insurrection in 1898, and the war with the Americans beginning early in 1899 until the close of the guerrilla warfare in June, 1902, the conditions of the country were not peaceable and agriculture could not flourish. Not only did the existence of actual war prevent farming, but the spirit of laziness and restlessness brought on by a guerrilla life affected the willingness of the native to work in the fields. More than this, the natural hatred for the Americans which a war vigorously conducted by American soldiers was likely to create did not make the coming of real peace easy.

But in addition to these disturbed conditions, due directly to war, there are certain features of Philippine civilization always present, war or no war, that do not tend to permanent tranquillity and can not be ignored.

In the first place the Philippines have been infested with ladrones, or robber bands, since their earliest history. The Spanish Government maintained a large force, called "la guardia civil," to suppress the evil. In some provinces, blackmail was regularly paid by large landowners to insure themselves against the loss incident to attack and destruction of their property. In the province of Cavite, for instance, ladronism was constant, and it was understood that the managers of the friars' estates, which amounted in all in that province to 125,000 acres, usually paid blackmail to ladrones in the form of money or provisions. The province of Cavite was known as "the mother of ladrones," and there was certainly a sympathy between the lower classes and the ladrones who mulcted the landlords.

But besides the ladrone habit, which makes for continued disorder, there is another quality of the ignorant masses of the Philippine people that is a constant danger to tranquillity. More than 80 per cent of the Philippine people are illiterate. Their ignorance is dense. They speak some 15 or 16 different Malay dialects. Knowledge of one dialect does not give an understanding of another. Each dialect has a limited vocabulary, which offers no medium of communication with modern thought or civilization. Their ignorance makes them suspicious of all educated persons but those of their own race who know their dialect and are well to do.

The result is that in rural communities in the Philippines whole townships of people are completely subject to the will of any educated,

active-minded person living in that community, who knows the local dialect and is willing or able to arouse either the fears or cupidity of his neighbors into the organization of a band either to resist fancied dangers or oppression, to satisfy vengeance, or to achieve a living and comfort without labor. This is the central and most important fact in the make-up of the local Philippine communities. It has led to the abuse of caciquism, i. e., local bossism, to which I shall refer in the question of the organization of municipalities and provincial governments. The history of the insurrection and of the condition of lawlessness which succeeded the insurrection is full of instances in which simple-minded country folk at the bidding of the local leader, or cacique, have committed the most horrible crimes of torture and murder, and when arrested and charged with it have merely pleaded that they were ordered to commit the crime by the great man of the community. This irresponsible power possessed by local leaders over their ignorant neighbors, in case of an independent Filipino government lacking the moral strength which the United States Government derives from its power and resources and its determination to punish disturbance and maintain order, would, under present conditions, lead, after a short period, to a chaos of ever-recurring revolt and insurrection to satisfy the vengeance of disappointed bosses and local leaders.

Whenever Filipino municipal officials come into contact either with non-Christian tribes or with inferior peoples of their own race like those who live in the mountains of Samar and Leyte, known as "pulahanes," they are likely to exercise official authority for their own profit and to the detriment of the inferior people. Thus in Samar and Leyte the mountain people raise a good deal of hemp. The municipal authorities of the lowlands and the local caciques conspire to prevent the disposition of this hemp to anyone but their own agents at an unjustly low price, using duress and a show of official authority for the purpose. This fraud and mistreatment ultimately creates among the mountain peoples a just sense of indignation. Then it is that some religious fakir invites them to organize against their enemies, under the charm of some religious token, and some lowland village is sacked and its people are murdered. The central and provincial authorities intervene and a war ensues, which lays waste much of the interior of the islands, to suppress a disorder that had its inception in a just cause of complaint.

Of course the frequency of such disturbances is reduced as education spreads, as the poor and oppressed begin to understand their rights and the lawful method of asserting them, and as the real cause of such outbreaks are more clearly understood and suppressed. But no account of the difficulty of maintaining peace and order in the



Philippines would be accurate or just which did not make clear this possible recurring cause of trouble and disturbance under present conditions, due to the ease with which simple-minded, ignorant people of a community can be aroused, by one or more of the better educated of their own race viciously inclined, to deeds of murder and cruel violence. Such disturbances are generally heralded as the evidence of seething sedition and discontent with the American Government, whereas they are generally but the effect and symptom of mere local abuses entirely Filipino in origin.

Having thus described the conditions of disorder, actual and potential, in the Philippines, due not only to the four or five years of intermittent and recurring war, the rancor and race hatred it tended to create, the unfounded hopes held out by American anti-imperialists, and all the other sequelæ of war, but also to certain normal features and qualities of the present Philippine civilization, I come to review the measures taken and policy adopted by the American Government to bring the Islands to their present state of complete tranquillity.

#### THE WORK OF THE UNITED STATES ARMY.

The agency of the Army in bringing about order in the Islands must never be minimized. The hardships of the campaign which it had to carry on were very great. The responsibility which was thrown upon captains, lieutenants, and sergeants in command of small detachments into which it was necessary to divide the Army to meet the exigencies of guerrilla warfare was met with courage and intelligence and great fertility of resource under most trying and unusual conditions. It is not too much to say that no other army of the same size could have accomplished the results which were accomplished by the American Army. At times there were some members of this Army who were tempted, in the eagerness of pursuit, into indefensible and cruel practices for the obtaining of information—practices which had been common among the Spaniards and the Filipinos themselves. Revelations of these cruelties led to severe indiscriminate criticism and attacks on the Army as a whole which were calculated to discourage and dishearten, but in spite of all difficulties the work went on. At one time in the campaign against guerrilla warfare there were more than 500 different posts and more than 65,000 men in arms. Certain it is that order would have never been restored without the efficient and courageous service rendered by the Army, and in spite of all the stories that were told of the cruelties inflicted by the Americans upon Filipinos, only a small part of which were true, any candid observer of the conditions at the time must admit that the American soldiers as a body exhibited toward the Filipinos a self-restraint and a sympathy with the benevolent

purposes of the administration which the circumstances and the character of the Filipino warfare carried on were not calculated to invite.

Not only did the Army do most efficient work in the suppression of the insurrection when war was rife, but the presence of 12,000 American soldiers in the Islands since has been a moral force of great weight to secure peaceful conditions. Occasionally they have been called on for active work in subduing disorders in particular provinces which had gone beyond the control of the local and insular peace officers and they have rendered prompt and effective service in such cases. They are now being concentrated in larger and larger posts for economical, educational, and disciplinary purposes, but their presence anywhere in the Islands is beneficial to the cause of order. They are now popular with the Filipinos, and we find the same objection to abandonment of posts by neighboring Filipino communities that we meet in the United States.

#### PROMISE OF EXTENSION OF SELF-GOVERNMENT.

President McKinley announced as his policy that the Philippine Islands would be taken over by the American Government to be governed for the benefit of the Filipinos, and that as they developed fitness for partial self-government it should be gradually extended to them. In order to enforce and give evidence of this purpose, he appointed a Commission in 1899, known from its chairman, Hon. J. G. Schurman, as the "Schurman Commission," to visit the Philippine Islands and extend local self-government as rapidly as possible. The Commission was able only to investigate conditions and to report that in its judgment the Filipinos were not fit for self-government. It was able to be present at the organization of municipal government in a few towns which had been captured by the Americans, but it practically was able to do no constructive work, in view of the conditions of war that existed while it was there. It returned to the United States and made its report.

In February of 1900 a new Commission was appointed by President McKinley, who gave it much more ample powers than its predecessor, for the purpose of organizing civil government in the wake of war as rapidly as conditions would permit. The powers conferred were set forth in a letter of instructions delivered by President McKinley to Mr. Root, Secretary of War, for his guidance and that of the Commission in respect of the policy to be pursued in the Philippines. The Commission arrived in June, 1900. The Commission was not authorized to assume any authority until the 1st of September and spent its time from June until September, 1900, in making investigations. It then took over the power and duty of enacting legislation to make a government for that part of the Islands

in which war had ceased to exist and to make appropriations from funds raised by taxation for civil purposes. The preparation and enactment of a municipal and a provincial code for the organization and maintenance of municipalities and provinces in the Islands occupied much of the attention of the Commission during the remainder of the year 1900.

For the three or four months prior to the Presidential election in November, 1900, it was impossible to proceed with the actual organization of civil government. The insurgents were assured that the Administration of Mr. McKinley would be defeated and that his defeat would be immediately followed by a separation of the Islands from the United States. Everything hung on the election. The re-election of Mr. McKinley was a great blow to the insurgents.

#### ORGANIZATION OF THE FEDERAL PARTY.

It is a mistake to suppose that the war by the Filipinos against the Americans had the sympathy of all the Filipinos. On the contrary, there were many intelligent and conservative men who favored American control and who did not believe in the capacity of their people immediately to organize a government which would be stable and satisfactory, but in the face of a possible independence of the Islands, they were still. Upon Mr. McKinley's second election many of these persons reached the conclusion that it was time for them to act. Accordingly, they formed the Federal Party, the chief platform of which was peace under American sovereignty and the acceptance of the American promises to govern the Islands for the benefit of the Filipinos and gradually to extend popular self-government to the people. The Federal Party received accessions by thousands in all parts of the Islands and in every province, so that the Commission was enabled during the year 1901, and under the auspices, and with the aid of, the Federal Party, to organize civil government in some 32 or 33 provinces, or in substantially all of them. The proof of the purposes of the American Government, given in the popular features of the provincial and municipal codes, which bore out in every respect the general promises of President McKinley, had much to do with the ending of the war. From November 1, 1900, until July 1, 1901, when military government was declared to be ended and a civil governor appointed, the men and guns surrendered exceeded that of any similar period in the history of the war.

#### THE CENTRAL GOVERNMENT.

The somewhat anomalous creation of the Philippine Commission, as a civil legislature in a purely military government established by the President by virtue of his powers as Commander in Chief, presented

some difficult questions of jurisdiction between the military governor and the Commission and led to considerable friction. The Commission, however, held the purse strings, and as is usual in such cases the control of appropriations ultimately left the powers of the Commission substantial and undisputed. Another difficulty arose in respect to jurisdiction of the courts established and appointed by the Commissioners to issue writs of habeas corpus to inquire into the legality of the detention of civilians by the general commanding. This, too, subsequently was worked out in favor of the civil courts. The differences between the military and civil authorities did not escape the attention of the Philippine public, and of course the sympathy of the Filipinos went with the civil side of the controversy, and the appointment of a civil governor July 1, 1901, and the clothing him with extensive authority had the popular approval. This was increased by the appointment to the Commission of three Filipino members. They were the most prominent members of the Federal Party. The Commission now consisted of the civil governor, four other Americans, and three Filipinos. The four American members, in addition to their legislative work, were made respectively the heads of four departments—one of finance and justice, the second of the interior, the third of commerce and police, and the fourth of public instruction. To these departments were assigned the appropriate bureaus by which the business of the central government was directly carried on. The presence of the Filipinos in the controlling body of the government offered an excellent opportunity for Filipino influence to affect legislation and brought to the new quasi civil government a sympathetic support from the Filipino public that included most of those but recently in arms against American sovereignty.

In some provinces civil government proved to have been prematurely established, notably in Batangas, Cavite, Cebu, and Samar, and in the fall of 1901 the services of the Army were again required in those provinces. But ultimately they became peaceful. The guerrilla forces which continued in arms were finally subjugated or brought in through the vigor of the Army and the influence of the Federal party, before July 1, 1902, when peace was officially declared to exist by your proclamation of amnesty.

#### EFFECT ON PERMANENT ORDER OF MUNICIPAL AND PROVINCIAL GOVERNMENTS AND NATIONAL ASSEMBLY.

Under the head of political education I shall describe the initiation and maintenance of municipal and provincial governments in some detail, and shall consider them and the assembly as instruments in

the political education of the Filipinos and comment on their efficiency and defects as government agencies. I now wish to refer to them as part of the so-called policy of "attraction." The Filipino people did not expect the liberal and popular provisions of the municipal and provincial codes, and their enactment created the revulsion of feeling that enabled the Federal party to bring on peace. The part the people were given in governing both towns and provinces stimulated them to efforts in behalf of order that became greatly more sympathetic and effective, when, as I hereafter point out, the officers of the insular constabulary learned their real function, of assistance and not independent command. The giving control of the provincial board to two elected officials added to their sense of responsibility as to order in the province and was convincing of the sincerity of American promise to extend popular control by gradual steps.

The provisions of the organic act passed by Congress in July, 1902, confirming President McKinley's policy and the promise of an assembly if good order was maintained, had a great effect to make the Filipino people anxious to preserve order, and no act of the American Executive was more convincing to the people of the good faith of the Administration than your proclamation of the elections at a time when an excuse for delay within the law might easily have been found in some of the disturbances then existing. The existence and influence of the assembly are important continuing factors in the maintenance of law and order.

#### ESTABLISHMENT OF COURTS.

Even under the purely military administration before the appointment of the Commission a military governor had established civil courts for the purpose of disposing of civil cases and for such violations of law as were not more conveniently disposed of by military tribunals. The Commission early passed a law dividing the Islands into some 15 districts, establishing a court of first instance in each district, together with a supreme court of seven to consider appeals from the courts of first instance. This system was recognized and adopted by Congress in the organic act of July 1, 1902. The policy was pursued of appointing a Filipino, the first lawyer of the Islands, the chief justice of the supreme court, together with two Filipino colleagues and four Americans. About the same proportion between Americans and Filipinos was observed in the appointment of judges of the court of first instance.

There was great difficulty in finding proper material for the American judges because there were so few American lawyers in the United

States who spoke Spanish, and it greatly interfered with the convenience of hearings if the judge did not know Spanish. However, time cured this difficulty, because the American appointees rapidly acquired a knowledge of the Spanish language sufficient to take testimony and hear arguments without interpreters. The first years of the courts, especially in the country, were almost entirely occupied in hearing criminal cases. The civil government very soon adopted the position that after a state of peace had been declared in 1902, men in arms engaged in looting and robbery should be treated not as *insurrectos* or as enemies under the laws of war, but merely as violators of the local law. In the early days of the insurrection if a body of *insurrectos* was organized in any province and was captured, their guns were taken and after a short imprisonment the men were released. This practice had led to a feeling on the part of the ignorant people that they might with impunity resort to arms, and if caught thereafter that they would be imprisoned for a short time only and then released. The imposition of long sentences, fifteen or twenty years, and the confinement of men in Bilibid prison and the requirement that they should work at hard labor was a most effective method of teaching the ignorant and easily led members of a community the difference between a political revolution and the crime of robbery and living on one's neighbors by force.

A great number of persons in various provinces were prosecuted for bandittiism. A statute was passed to cover these cases providing that a man might be convicted of a felony by conclusive proof that he was a member of a band organized to commit robberies, even though no evidence was adduced to show any particular robbery in which he was personally concerned. This has been hailed as a departure from the usages of the common law and the spirit of our institutions. It is nothing of the kind. It is merely the denunciation of a particular kind of conspiracy. It was entirely impracticable to identify the perpetrators of particular robberies, but it was entirely practicable to prove conclusively the existence of a band to commit the robberies, and the membership of the particular defendant in that band, although his presence at the commission of an overt act it was often impossible to show. There is not the slightest reason in law or morals why a man thus proved to be a robber should not be punished and punished just as severely as the men who were actually taken in the commission of the act. The effect of this law was to bring to justice a great number of criminals in various provinces, and its vigorous administration by both the Filipino and American judges under active prosecution by Filipino prosecutors did much toward the suppression of *ladronism*. The difficulty was that the number of convicted persons became so large as to strain the capacity of the jails and penitentiaries in the Islands. This congested condition has been met, however, now, first,

by the establishment of a penal colony in the island of Palawan, and, second, by the use of prisoners in several provinces for the construction of roads.

After many of those sentenced for highway robbery had served two years the governor-general appointed a commission to go over the cases to recommend for pardon those persons who, while guilty of the crime charged were not of the criminal class, but had been led into it by duress and undue influence of neighboring brigand chiefs and caciques. Quite a large number of these persons were paroled and sent back to their homes to give them an opportunity to become good citizens. The changing condition of the country and the maintenance of law and order are evidenced by the fact that the proportion of civil cases to criminal cases in the courts of first instance and the supreme court is rapidly increasing. It is becoming much easier to dispose of the criminal cases, while it is the civil cases that now clog the dockets. The standard in the administration of justice in the Islands is high. It has been sometimes charged by irresponsible persons that some of the judges were subject to executive influence. An investigation into the matter discloses not the slightest evidence of the existence of any such evil, and the whole charge rests on the easily spread rumor of disappointed litigants or political enemies of the government. On the whole, I am quite sure that throughout the Islands the judges of the courts, and especially the members of the supreme court, have the entire confidence of the public in the justice and sincerity of their conclusions. No distinction has been made in the hearing of causes by a Filipino or American judge, and the system moves on quietly and effectively to accomplish the purpose for which it was adopted. The influence of the courts in the restoration of order has been very important.

#### THE PHILIPPINE CONSTABULARY.

Another step most necessary and useful in the restoration of order was the organization of a body of upward of 5,000 men, Filipinos officered by Americans, into a constabulary divided into companies and organized by Regular Army officers. But little difficulty was found in the organization of this body as an efficient fighting and scouting force, but it took several years of training, of elimination, and of severe discipline before the subordinate officers, those assigned to each province, were made to understand the proper policy to be pursued by them in respect to the native governors and presidents of the municipalities who had been elected by the people under the municipal and provincial codes. At first there was constant friction and suspicion between them, and this did not aid at all the work of suppressing ladrones and other disreputable and vicious elements of the community. Year by year, however, improvement has

been made in this regard, and the lesson has been taught that the constabulary are not a military force, but a force of police organized by the central government and paid out of its treasury to assist in a sympathetic way the native local officers in the work of suppression of disorder and lawlessness of their particular localities. When I was in the Islands two years ago the native papers were full of condemnation of the constabulary and its severity. During the last two years a most remarkable change has taken place in the relations between the officers and men of this force and the provincial governors and officers of the towns, and now there is nothing more popular in the Islands than the constabulary.

#### FRIARS' LANDS.

A most potential source of disorder in the Islands was the ownership of what were called the "friars' lands" by three of the religious orders of the Islands—the Dominicans, the Augustinians, and the so-called bare-footed Augustinians, known as "Recoletos." These lands amounted in all to 425,000 acres, of which 275,000 were in the immediate neighborhood of Manila, 25,000 in Cebu, and 125,000 in the remote provinces of Isabela and Mindoro. The tenants on those which were close to Manila numbered some sixty or seventy thousand persons. The attitude of the people toward the friars' lands was shown by the fact that the so-called constitutional convention assembled by Aguinaldo at Malolos nationalized the friars' lands—that is, appropriated them to the so-called "Republic of the Philippines." With the restoration of order and the establishment of courts the representatives of these religious bodies were entitled to go into court and recover from tenants the rents which had been in arrears since 1896, and to eject them from the lands which they had occupied unless they admitted title and continued to pay rent. The occupants of the friars' lands resolutely refused to do either, and the Philippine government was confronted with the immediate prospect of suits to evict 60,000 tenants in those provinces prone to disturbances and insurrection.

The situation was further strained by the fact that the church, for lack of other competent priests, showed every inclination to send back to the parishes from which they had been driven as many of the friars who had been parish priests as it could. Every parish to which a friar priest returned at once began to seethe with popular indignation, and threats of violence were constantly made toward him. The only solution possible, consistent with the preservation of vested property rights on the one hand, and the right secured by treaty to the friars of freedom of religion and freedom of speech in any part of the islands, was some arrangement by which the



land could be taken over by the Government and the church induced not to send friars as parish priests to those parishes where riot and disturbance were likely to follow. A visit to Rome for consultation with the head of the Roman Catholic Church resulted in the Pope's sending an apostolic delegate to the Islands with adequate powers and in subsequent negotiations which ultimately led to the purchase of the lands for seven millions of dollars and induced a practice on the part of the hierarchy of the church by which they send no friars as parish priests into any parish in which the governor-general makes final objection.

The price paid for the lands was a good round sum. It had to be in order to secure them. Congress, convinced of the necessity for their acquisition, had provided, in the organic act for the establishment of a government in the Philippines, either for their purchase or in the alternative for their condemnation by the Government and their subsequent disposition on long, easy terms to the occupants. The representatives of the Dominican order objected to the condemnation of their lands and employed able counsel to test the validity of the provision for condemnation for such a purpose. The point made was a serious one and increased the importance of securing the lands by purchase, if possible. With the government as a landlord the tenants manifest no disposition to contest its title, save in a few isolated cases. I shall not stop now to discuss the present value of the lands or their management. I shall refer to that later. It is enough for my present purpose to point out that the acquisition of these lands by the government and the adjustment of differences as to the use of friars as parish priests have removed a fruitful source of disturbance in the provinces of Cavite, Laguna, Manila, Bataan, Morong, and Cebu.

By another compromise, to which I shall refer in detail later, a controversy between the government and the Roman Catholic Church as to charitable and educational trusts and in respect to the Spanish-Filipino Bank has been settled. At one time this controversy promised to contribute to the disorder of the Islands.

There are no other questions between the government and the Roman Catholic Church, unless it can be said that questions of possession and title to church property arising from the Aglipayan schism can be said to involve them.

Immediately after our negotiations with Leo XIII at Rome were found not to include an absolute agreement to withdraw the friars from the Islands, Aglipay, a former Catholic priest under excommunication, organized a schism from the Roman church. He called his church the Independent Filipino Catholic Church. At first the schism spread far and wide through the Islands, and as the number of priests of the Roman Catholic Church by reason of the expulsion

of the friars had been reduced so that many churches lay open and idle, the priests of the Aglipayan schism, with the acquiescence of the townspeople in the various villages where the Aglipayans were in the majority, assumed possession of land and church buildings which had been occupied in Spanish days by the Roman Catholic Church. Possession was taken under a claim that the churches belonged to the people of the municipality and that they were able to dispose of the use of the churches to such religious purposes as they saw fit. This course of procedure led to innumerable controversies and to frequent breaches of the peace and to a bitterness of feeling that did not make either for the tranquillity of the Islands or their prosperity.

The Executive consistently and properly declined to decide the question of title or the right to possession which arose in each case after peaceable possession had been taken. This was regarded as unreasonable by the authorities of the Roman Catholic Church, but was the only possible course which the civil executive could take without arrogating to itself judicial powers. Instead of attempting to decide these questions the Commission passed a law providing for their early settlement by suits brought originally in the supreme court. One set of these cases has been decided in favor of the Roman Catholic Church and others are now nearly ready for decision, so that we may reasonably expect that within six months the whole matter may be disposed of, and when this is done the religious obstacles that seemed so formidable when the Philippine government was assumed by the United States will have been disposed of permanently and that fruitful source of disturbance and riot and discontent will have ceased.

I have given in detail the steps taken to restore and maintain order in the Islands. I have mentioned the vigorous campaign of the Army and the moral restraint of its presence in the Islands, the promises of President McKinley as to gradual extension of self-government, the organization of the Federal party, the institution of municipal and provincial governments on a popular plan, the confirmation of President McKinley's policy by the act of Congress establishing a Philippine government, assuring a national assembly, and your fulfillment of the assurance, the establishment of courts with partly American and partly Filipino judges, the punishment of predatory bands as civil felons, the establishment and growth of the insular constabulary as a sympathetic aid to Filipino municipal and provincial officials in suppressing lawlessness, and, finally, the removal by satisfactory compromises of the irritating church questions which had much to do with causing the original insurrection and, if unsettled, were pregnant with disorder.

## PRESENT CONDITION.

Peace prevails throughout the Islands to-day in a greater degree than ever in the history of the Islands, either under Spanish or American rule, and agriculture is nowhere now impeded by the fear on the part of the farmer of the incursion of predatory bands. Under the policy already stated, inaugurated by the instructions of President McKinley to Secretary Root, in reference to the establishment of a temporary government in the Philippines, a community consisting of 7,000,000 people, inhabiting 300 different islands, many of whom were in open rebellion against the Government of the United States for four years, with all the disturbances following from robber and predatory bands which broke out from time to time, due to local causes, has been brought to a state of profound peace and tranquillity in which the people as a whole are loyally supporting the government in the maintenance of order. This is the first and possibly the most important accomplishment of the United States in the Philippines.

**THE POLITICAL CAPACITY AND INTELLECTUAL DEVELOPMENT OF THE FILIPINOS UNDER SPAIN AND THE STEPS TAKEN BY THE PHILIPPINE GOVERNMENT FOR THEIR GENERAL AND POLITICAL EDUCATION.**

Very little practical political education was given by the Spaniards to the Filipinos. Substantially all the important executive offices in the Islands were assigned to Spaniards, and the whole government was bureaucratic. The provincial and municipal authorities were appointed and popular elections were unknown. The administration of the municipalities was largely under the supervision and direction of the Spanish priest of the parish. No responsibility for government, however local or unimportant, was thrust upon Filipinos in such a way as to give them political experience, nor were the examples of fidelity to public interest sufficiently numerous in the officeholders to create a proper standard of public duty. The greatest difficulty that we have had to contend with in vesting Filipinos with official power in municipalities is to instill in them the idea that an office is not solely for private emolument.

There was an educated class among the Filipinos under the Spanish régime. The University of St. Thomas, founded by the Dominican Order early in the seventeenth century, has furnished an academic education to many graduates. The same order, as well as the Jesuits and the Augustinians, maintained secondary and primary schools for the well-to-do. Quite a number of Filipinos were educated in Spain or France. As compared with the youth and young men of school

and college age in the Islands, the number, however, was very small. These men were educated either as lawyers, physicians, pharmacists, or priests. In politics their knowledge was wholly theoretical. They imbibed liberal ideas from the spread of republican doctrines in Spain, and the repressive policy of the Spanish Government, of course, operated only to encourage them. They were patriotic, and soon conceived of the Philippines as a nation. Rizal, a leader of Philippine thought, a poet, and a political writer, did not favor independence, for he believed his people not yet fitted, but he sought reform in the Spanish government of the Philippines and some popular voice in it.

As the protest against Spanish domination grew, the aspiration for complete independence took possession of many, and in the insurrections which followed there were many patriots moved by as high ideals as those which have led to revolutions in any country. Their conceptions of liberty, of independence, of government were wholly ideal, however. When in the course of events they came to actual government they were unable to realize their conceptions, and only a one-man power or an oligarchy with class privilege, and no real civil rights for the so-called serving or obedient class, followed. They needed as much education in practical civil liberty as their more ignorant fellow-countrymen in reading, writing, and arithmetic.

The efforts of the American Government to teach the ignorant their civil rights and to uplift them to self-governing capacity finds only a languid sympathy from many of the "ilustrados." From them comes the only objection to teaching English to the common people, lest they lose their national character; as if it were necessary to keep the people confined to 16 barbarous dialects in order that they should be distinctly Filipino. The real motive for the objection, whether conscious or not, is in the desire of the upper class to maintain the relation of the ruling class to the serving and obedient class.

The educated Filipino has an attractive personality. His mind is quick, his sense of humor fine, his artistic sense acute and active; he has a poetic imagination; he is courteous in the highest degree; he is brave; he is generous; his mind has been given by his education a touch of the scholastic logicism; he is a musician; he is oratorical by nature.

The educated Filipino is an aristocrat by Spanish association. He prefers that his children should not be educated at the public schools, and this accounts for the large private schools which the religious orders and at least one Filipino association are able to maintain. In arguing that the Philippines are entirely fit for self-government now, a committee of educated Filipinos once filed with the civil gov-

ernor a written brief in which it was set forth that the number of "ilustrados" in the Islands was double that of the offices—central, provincial, and municipal—and therefore the country afforded two "shifts" of persons competent to run the government. This, it was said, made clear the possibility of a good government if independence was granted. The ignorance of the remainder of the people, admitted to be dense, made no difference. I cite this to show of how little importance an intelligent public opinion or an educated constituency is regarded in the community and government which many of the educated Filipinos look forward to as a result of independence. I do not say that there are not notable exceptions to this among leading Filipinos, but such persons are usually found among those who are not so impatient to lose American guidance in the government. Indeed, I am gratified to hear that the first bill which passed the Assembly was an appropriation of a million pesos for barrio schools. On the whole, however, there is reason for believing that were the government of the Islands now turned over to the class which likes to call itself the natural ruling class, the movement initiated by the present government to educate the ignorant classes would ultimately lose its force. The candor with which some of the representatives of the independista movement have spoken of the advantage for governmental purposes of having 80 per cent of the people in a serving or obedient class indicates this.

No one denies that 80 per cent of the Filipino people are densely ignorant. They are in a state of Christian tutelage. They are child-like and simple, with no language but a local Malay dialect spoken in a few provinces; they are separate from the world's progress. The whole tendency under the Spaniards was to keep them ignorant and innocent. The Spanish public school system was chiefly on paper. They were for a long time subject completely to the control of the Spanish friar, who was parish priest and who generally did not encourage the learning of Spanish or great acquaintance with the world at large. The world owes to the Spanish friar the Christianization of the Filipino race. It is the only Malay or oriental race that is Christian. The friars beat back the wave of Mohammedanism and spread their religion through all the Islands. They taught the people the arts of agriculture, but they believed it best to keep them in a state of innocent ignorance. They did not encourage the coming into the Filipino local communities of Spaniards. They feared the influence of world knowledge. They controlled the people and preached to them in their own dialects. They lived and died among them.

The friars left the people a Christian people—that is, a people with Western ideals. They looked toward Rome, and Europe, and America.

They were not like the Mohammedan or the Buddhist, who despise Western civilization as inferior. They were in a state of tutelage, ripe to receive modern Western conceptions as they should be educated to understand them. This is the reason why I believe that the whole Christian Filipino people are capable by training and experience of becoming a self-governing people. But for the present they are ignorant and in the condition of children. So, when the revulsion from the Spanish domination came, as it did, the native priest or the neighboring "ilustrado" or "cacique" led them into the insurrection. They are a brave people and make good soldiers if properly led. They learn easily, and the most striking fact in our whole experience in the Philippines is the eagerness with which the common Filipino agricultural laborer sends his children to school to learn English.

There is no real difference between the educated and ignorant Filipinos that can not be overcome by the education of one generation. They are a capable people in the sense that they can be given a normal intellectual development by the same kind of education that is given in our own common school system. Now they have not intelligence enough to exercise the political franchise with safety to themselves or their country; but I do not see why a common school education in English, with industrial teaching added, may not make the children of these people capable of forming an intelligent public opinion needed to sustain a popular government if, at the same time that the oncoming generations are being educated in schools, primary and industrial, those who are intelligent are being given a political education by actually exercising the power of the franchise and actually taking part in the government.

As will be seen hereafter, the Philippine government has not funds enough to educate in primary and industrial schools all the present generation of school age, and unless some other source of funds than governmental revenues is found it will take longer than a generation to complete the primary and industrial education of the common people. Until that is done, we ought not to lift our guiding hand from the helm of the ship of state of the Philippine Islands. With these general remarks as to the present unfitness of the Filipino people for popular self-government and their capacity for future development so that they may, by proper education, general and political, become a self-governing people, I come to the methods pursued by the Philippine government in furnishing to the Filipinos the necessary education. I shall consider the subject under two heads:

1. Education in schools for the youth of school age.
2. Practical political education by the extension, step by step, of political control to an eligible class.

Reference has already been made to the fact of the very great ignorance and illiteracy that prevails among the Filipino people. It is not too much to say that knowledge of Spanish is a fairly good indication whether an individual can be said to be educated. Statistics show that but 7 per cent of the people of the Islands speak Spanish; all the others speak in the varying dialects, which among the civilized people number some 16. The Philippine people should be educated sufficiently to have a common medium of communication, and every man, woman, and child should have the benefit of the primary education in that common medium. Reading, writing, and arithmetic are necessary to enable the rural laborer and the small hemp, cocoanut, or tobacco farmer to make contracts for the sale of his products and to know what price he should receive for that which he has to sell. •With this knowledge, too, he will soon be able to know his own rights and to resist the absolute control which is now frequently exercised over him by the local cacique.

The necessity for a common school system was emphasized in the instructions of President McKinley to Secretary Root, and those responsible for the government of the Islands have been earnest and active in seeking to establish one. The language selected for the schools is English. It is selected because it is the language of business in the Orient, because it is the language of free institutions, and because it is the language which the Filipino children who do not know Spanish are able more easily to learn than they are to learn Spanish, and it is the language of the present sovereign of the Islands. The education in English began with the soldiers of the American Army, one of whom was detailed from each company to teach schools in the villages which had become peaceful. When the Commission assumed authority it sent to the United States for 1,000 American teachers, and after the arrival of these pioneers in the Islands, a system of primary schools was inaugurated together with normal schools.

Public educational work in the Islands is performed under the bureau of education, with the central office located in Manila, having 37 divisions, each in charge of a division superintendent, embracing in all 379 school districts each in charge of a supervising teacher. The total number of schools in operation during the past year was: Primary schools, 3,435; intermediate schools, 162; arts and trades schools, 32; agricultural schools, 5; domestic-science schools, 17, and provincial high schools, 36, making a total of 3,687 and an increase from the previous year as follows: 327 primary schools, 70 intermediate schools, 15 arts and trades schools, 3 agricultural schools, and

9 domestic-science schools. There are engaged in the teaching of these schools at present 717 permanent American teachers and 109 temporary appointees, and all of these are paid out of the central treasury. In addition to these there are what are known as Filipino insular teachers, numbering 455, who are paid out of the central treasury. In addition to these there are 5,656 municipal Filipino teachers, all of whom speak and teach English and who are paid out of the treasuries of the municipalities.

The 6,000 Filipino teachers who are now teaching English have received their English education from our normal schools or our American teachers. Their number is growing, and they represent and are the most valuable educational asset we have acquired in working out our school system. The average annual salary of the Filipino insular teacher is 533.2 pesos a year, while that of municipal teachers is 210.36 pesos. The Filipino insular teachers are drawn from graduates of normal schools and also from the students sent by the government and at the expense of the government to the United States to be educated there. Forty-six of these students have recently returned from the United States and have been appointed as insular teachers at salaries ranging from 840 to 960 pesos per annum. The average paid to the American teacher is about \$1,200 per annum. The total enrollment for the year, inclusive of the Moro Province—the schools in which are conducted under a separate system—was 479,978. This was in the month of March at the close of the school year, when the enrollment reached its highest point. The average enrollment total by months was 346,245, of whom 62 per cent were boys and 38 per cent were girls. The average daily attendance was 269,000, or a percentage of attendance of about 85 per cent. The highest percentage of attendance was 94, in the city of Manila. The lowest percentage in some of the provinces was 78. The attendance and enrollment in schools begins in August, which is the beginning of the school year, and ends in March. As August is one of the wet months, the attendance begins at the lowest figure and increases gradually into the dry season until its highest point at the close of the school year in March.

The central government this year for school purposes and construction of schools has appropriated 3,500,000 pesos. The maintenance of primary schools is imposed by law upon the municipalities, and involves a further expenditure of nearly a million and a half pesos. In order to relieve distress incident to agricultural depression, it was found necessary to suspend the land tax, a part of the proceeds of which by mandatory provision of law was appropriated to the support of municipal schools. The central government in the first year appropriated a sufficient sum from the internal revenue to meet the deficit caused by the failure to impose the land tax, but in the present year it was only able to appropriate 50 per cent of the amount which



would have been raised by the land tax, and next year no such appropriation will be made, and it will be left optional with the province whether the land tax shall be imposed or not.

The great difficulty in the matter of education in the Islands is the lack of funds to make it as extended as it should be. The suspension of the land tax is subjecting the educational system to a crisis, but the revival of agriculture in many parts of the Islands leads to the hope that the crisis may be successfully passed. It would be entirely possible to expend for the sole benefit of the Philippine people, without the least waste, upward of two or three millions of dollars annually in addition to all that the government of the Philippine Islands—central, municipal, and provincial—can afford to devote to this object. We are not able to educate as they should be educated more than a half of the youth of school age in the Islands. The government, while contributing to the maintenance of high schools in each province, is devoting its chief attention to the spread of primary education, and in connection with primary education, and, at its close in the intermediate schools, to industrial education. Primary and industrial education carried on until the child is 14 or 15 years old is thought to be the best means of developing the Filipino people into a self-sustaining and self-governing people, and the present government has done all that it has been possible to do in developing and maintaining a proper system for this purpose. The tendency toward the development of industrial education the world over has created such a demand for industrial teachers as to make it impossible for the Philippine government to secure as many as are needed for the purpose in the Islands, and in order to have these industrial teachers it must take the time to educate them as such, just as it did the Filipino primary teachers in English.

There are now in the Islands, including art and trade schools, agricultural schools, and domestic-science schools, at least one industrial school to every province, and it is the purpose to increase this number as rapidly as resources and opportunity will permit. Under the influence of the traditions of the Spanish régime, when manual labor seems to have been regarded as an evidence of servitude, it was at first impossible to secure pupils for the great manual training school in Manila. Boys preferred to be "escribientes" or clerks and gentlemen rather than to learn to win a livelihood by the skill of their hands, but this has been rapidly overcome. In the insular school of arts and trades in Manila, where the plant and equipment is quite satisfactory, instruction is now given some 350 pupils in English, arithmetic, geography, mechanical drawing, woodworking (bench work, carving, turning, and cabinet making), ironworking (bench work, filing, blacksmithing, and iron machine work), and finishing, including painting and varnishing, to which will be added next year

boat building and wheelwrighting. At the present time there are on the waiting list some 200 pupils who seek admission but for whom no places are available. A large insular agricultural school is to be established in Manila for giving instruction in practical agriculture, and the money, 100,000 pesos, necessary for the building and construction has already been appropriated.

The influence of the primary instruction in English is shown throughout the Islands by the fact that to-day more people throughout the Islands, outside of Manila and the large cities, speak English than speak Spanish. A noticeable result of the government's activity in the establishment of English schools has been the added zeal in teaching English in private educational establishments. A Filipino school managed and taught only by Filipinos, called "Liceo," has some 1,500 pupils in Manila, and English is regularly taught as part of the curriculum of that school; the Dominican order of friars, which is primarily an educational order, has schools in and about Manila with upward of 2,000 students, and English is now made a very important part of the curriculum of those schools. The Jesuits also have two very large schools in Manila, embracing some 1,000 or 1,500 pupils drawn from all parts of the Islands, in which English is made an important branch of the study. There is considerable competition in this matter and there seems now to be a united effort to spread the knowledge of English in accordance with the government's policy. At times, as already intimated, a discordant note is heard in the suggestion that the American Government is seeking to deprive the Filipino of his native language. As his native language is really 15 or 16 different dialects, this does not seem a great deprivation. It is possible that some effort will be made to include in the primary instruction the reading and writing of the local dialect in the local schools. No objection can be made to this unless it shall interfere with the instruction in English, which it is hoped it may not do.

Should Congress be anxious to facilitate and hurry on the work of redeeming the Philippine Islands and making the Filipino people a self-governing community, it could take no more effective step than a permanent appropriation of two or three millions of dollars for ten or fifteen years to the primary and industrial education of the Filipino people, making it conditional on the continued appropriation by the Philippine government of the same amount to educational purposes which it has devoted and is now devoting annually to that purpose. The influence of the educational system introduced has not only been direct in the spread of education among the younger of the present generation, but it has also been an indirect means of convincing the Filipino people at large of the beneficent purpose of the American Government in its remaining in the Philippine Islands and of the sincerity of its efforts in the interest of their people.

Section 36 of the act of Congress, approved February 2, 1901, referring to Philippine Scouts, provides that—

“When, in the opinion of the President, natives of the Philippine Islands shall, by their services and character, show fitness for command, the President is authorized to make provisional appointments to the grades of second and first lieutenants from such natives, who, when so appointed, shall have the pay and allowances to be fixed by the Secretary of War, not exceeding those of corresponding grades of the Regular Army.”

As it is thought that better results will be obtained if a few young Filipinos, especially selected, be appointed to the United States Military Academy with a view to their being commissioned officers of scouts upon graduation, I strongly recommend that Congress, by appropriate legislation, authorize the appointment of seven young Filipinos, or one for about every million of inhabitants of those Islands, as cadets at the Military Academy at West Point. This action on the part of Congress would, in my judgment, tend to further increase the zeal and efficiency of a body of troops which has always rendered faithful and satisfactory services.

#### SECOND: PRACTICAL POLITICAL EDUCATION.

There is no doubt that the exercise of political power is the best possible political education and ought to be granted whenever the pupil has intelligence enough to perceive his own interest even in a rude practical way, or when other competent electors are sufficiently in the majority to avoid the injury likely to be done by a government of ignorance and inexperience. The Philippine government concluded that the only persons in the Philippines who had intelligence enough to make their exercise of political power useful to them as an education and safe as a governmental experiment were those who spoke and wrote English or Spanish, or who paid \$7.50 a year taxes, or whose capacity had been recognized in Spanish times by their appointment as municipal officials. Adult males who came within these classes, it was thought, ought to begin their political education by assuming political responsibility, and so they were made electors in municipal, provincial, and assembly elections, and embraced, as near as it can be estimated, about 12 to 15 per cent of the adult male population. Of course, as the common school education spreads, the electorate will increase.

Let us now examine the political education which has been given in practice to these eligible electors and the results.

#### MUNICIPALITIES AND PROVINCES.

By the municipal code the old municipalities under the Spanish régime, which resembled the townships of the West and the towns of

New England, were authorized to reorganize under the American Government. They consisted generally of the población, or the most centrally located and most populous settlement, with a number of barrios or outlying wards or villages, all within the municipality and under its control. The provisions of the code did not differ materially from those of similar codes in the United States, except that wherever possible and practicable the unobjectionable customs of the country were recognized and acquiesced in formally in the law. The towns were divided into classes and the salaries of the officials were limited accordingly. The provincial code provided for the organization of governments in the provinces which had been recognized as provinces under the Spanish régime. Under the original provisions of that code the government of the province—legislative and executive—was under a provincial board, consisting of a governor and treasurer and a supervisor of roads and buildings. Other appointed officers were provided, as the prosecuting attorney and the secretary of the province, who did not sit on the provincial board. The governor was originally elected by the councilmen of all the towns of the province assembled in convention, they themselves having previously been elected by the people. The treasurer and supervisor were each selected and appointed under the rules adopted in accordance with the merit system provided in a civil-service law, which was among the first passed by the Commission.

One of the early difficulties in the maintenance of an efficient government in the provinces was the poverty of the provinces and the lack of taxable resources to support any kind of a government at all. It was soon found that the provincial supervisor, who, it was hoped, might be an American engineer, was too expensive a burden for the province to carry. For a time the district superintendent of education of the province was made the third member of the provincial board instead of the supervisor, whose office was abolished. This, however, did not work well, because the time of the superintendent was needed for his educational duties. Subsequently, therefore, it was thought wise to provide a third member of the board, who served with but little compensation and who was elected as the governor was elected. The system of electing the governor by convention of councilmen of all the towns of the province was changed, so that now the governor and the third member of the board are elected by direct popular vote, while the treasurer is still appointed. It will be seen that, in this way, the government of the towns is completely autonomous, subject only to visitation and disciplinary action of the governor of the province and of the governor-general on appeal. The provincial government now, though not originally, is completely autonomous in the sense that a majority of the board which governs

the province are elected by the people. The duties of the provincial treasurer are burdensome, complex, and important to such a degree as to make it impossible thus far to find Filipinos who have been able to master the duties of the office and to give satisfaction therein, although there are quite a number of Filipino assistant treasurers and subordinates in the office of treasurer who give reasonable ground to expect that the American treasurers may be in a reasonable time supplanted by Filipino treasurers.

The question now arises what has been shown in the government of these municipalities and of the provinces in respect to the capacity of the Filipinos for complete self-government in local matters? It is undoubtedly true that the municipalities would be much more efficient had the policy been pursued of appointing Americans to the important offices in the municipalities, but there would have been two great objections to this course, one that the municipal government would not have attracted the sympathetic attention of the people as the present municipalities have—and we would thus have lost a valuable element in making such government a success—and the other that the educational effect upon the people in training them for self-government would have been much less.

When I say that the development of municipal government in the Philippines has been satisfactory, I am far from saying that it has been without serious defects. All I mean is that considering the two-fold object in view—first governmental, second educational—the result thus far with all its shortcomings shows progress toward both ends and vindicates the course taken.

Up to the time of our occupation, the government had represented to the Filipino an entity entirely distinct from himself with which he had little sympathy and which was engaged in an attempt to obtain as much money as possible from him in the form of taxes. He had been taught to regard an office as the private property of the person holding it and in respect to which ordinary practice justified the holder in making as much profit from it as he could. The idea that a public office is a public trust had not been implanted in the Filipino mind by experience, and the conception that an officer who fails in his duty by embezzlement or otherwise was violating an obligation that he owed to each individual member of the public, he found it difficult to grasp. He was apt to regard the robbing of the government by one of its officers as an affair in which he had little or no interest and in which, not infrequently, his sympathies were against the government. As a consequence, the chief sense of restraint felt by municipal officials in handling public funds comes from a fear of inspection by the central government and its prosecution. The fear of condemnation by the public opinion of the local community has a much less deterrent force,

even if the official is to seek reelection. The sense of responsibility for the government they control and whose officers they elect is brought home to the people of a municipality with slowness and difficulty. This is the political education that is going on in the Filipino municipalities. We are making progress, but we must be patient, for it is not the task of a day to eradicate traditions and ideas that had their origin in a system of government under which this people lived for centuries.

Hence when we find that there is still a considerable percentage of Filipino municipal officers who have to be removed and prosecuted for embezzlement, we must not be discouraged. Early in the American occupation we had to prosecute sixteen or seventeen American provincial treasurers for defalcations in public funds. It was bitterly humiliating for the dominant race to furnish such an example, when we were assuming to teach the Filipinos the art of self-government. The American embezzlers were all promptly sent to Bilibid Penitentiary for long terms. This had an excellent effect upon both Americans and Filipinos in the Islands. The defalcations were due to a lack of good material available for these positions in the Islands. To-day the American provincial treasurers are of the highest order of public servants and are a credit to the American name. Their example has been of the utmost benefit in the training of Filipino municipal and provincial officials.

Another difficulty arising from a similar cause that we have had to meet and overcome has been the disposition of municipal councils to vote all of the available funds for the payment of their own salaries and leave nothing for the improvement or repair of roads, the construction of buildings, or the payment of school-teachers, and this although the law may, by mandatory provision, have set aside certain definite shares of the public funds for such purposes. These evils have had to be remedied by placing the funds in the hands of the provincial treasurer so as to secure the payment of the amount required by law to be devoted to educational purposes and by imposing upon the discretion of common councils to vote salaries from their funds a limitation that the total of salaries shall not exceed a certain percentage of the total funds in control of the town.

The people of the towns seem fully to appreciate the value of roads, but when it comes to exerting themselves and denying themselves for the purpose of securing the great benefit of good roads, they have not thus far nerved themselves to the sacrifice. Many miles of road have been constructed by the central government and then turned over to the municipalities for maintenance, with the result that in one or two years of the torrential rains the roads have become nothing but quagmires without any work of maintenance or repair done on them. One of the common means throughout the United States for

building roads or repairing them is to require all male adults to work upon the roads four or five days of the year, or perhaps a longer period, or to commute the work by payment of a tax. This would be the natural method of repairing roads in the Philippines; but the difficulty is that it was the method adopted by the Spaniards, and in the Spanish times the power of the local authorities to direct free labor upon the roads for a certain period of time was so greatly abused and perverted to the seeking of personal vengeance and the private profit of the local authorities that it has been impossible to obtain any popular support for a system based on the same principle, and good roads have been allowed to go to destruction rather than to run the risk of a recurrence of the old abuses.

A difficulty in connection with the maintenance of roads may be mentioned here. The old-time method of transportation in the Philippines was by a carabao or ox cart with a rigid axle and with solid wheels, the rims of which were so narrow as to cut like a knife into any road over which they traveled. Laws have been passed from time to time imposing a penalty for using wheels on public roads with tires less than a certain width, but it has not been possible to secure such an administration of the law by the provincial governments as to prevent the continuance of this abuse, although means have been taken to furnish at a very reasonable rate sets of wheels with tires of sufficient width to avoid road destruction. Local officials have been loath, when dependent for their continuance in office upon the votes of their fellow-citizens, to enforce a law the wisdom of which they fully recognize, but the unpopularity of which they also know.

It has been found that sanitary measures can not be safely intrusted to municipal authorities for enforcement whenever emergencies arise, but that some local agency of the central government must be created for the purpose. At first full power was given to the municipality to determine by ordinance where cemeteries might be established, having regard to the health of the town. This proved a most convenient instrument for partisan abuse in the religious controversies arising between the Roman Catholics and the Aglipayans. An Aglipayan municipal council would require by ordinance the immediate closing of a Roman Catholic cemetery, although it was not in the least dangerous to health, and then would permit an Aglipayan cemetery much nearer the town and in a really objectionable place. Partisans of the Roman Church in control of other municipalities would abuse their powers in the same way. The consequence was that the central and provincial authorities had to be given direct supervisory control of this matter.

Another defect in many Filipino towns I have already referred to is the evil of caciquism. Too often the presidente and other town officers use their offices to subject the ignorant residents of their respective

towns to their business control in the sale of farm products. The officer acts as the middleman in the sale and takes most of the profit from his constituent. The evil is hard to reach because the same power which compelled the sale can usually compel silence and no complaint is heard from the victims until, dimly realizing the injustice done them, they resort to criminal outbreaks and bloody vengeance. While it is too much to hope for the complete eradication of this abuse until the laborer shall acquire enough education to know his rights before the law and how to assert them, there has been much improvement in this regard since the American occupation.

The evil of caciquism shows itself in a more flagrant form when Filipino municipal or even provincial officials are vested with governmental control over non-Christian tribes, or others not of their own race, scattered through the Christian Filipino provinces. These people living in small settlements are slowly working toward a better civilization under the influence of education and are capable of much greater progress if properly treated. Such settlements were originally placed under the regular Filipino provincial and municipal governments within whose territorial jurisdiction they happened to be, but the abuses and oppression to which they were subjected necessitated an entirely different policy with respect to them and the organization of separate governments controlled directly from Manila under the interior department. Mr. Worcester, the secretary of the interior, has given especial attention to the care and development of these non-Christian tribes. It has been necessary to organize in Northern Luzon three or four subprovinces within the territorial limits of the Filipino provinces and to secure the protection of the non-Christians by the appointment generally of an American lieutenant-governor. This is also true in the province of Misamis and of Surigao in Mindanao, where it was found impossible to induce the provincial officers to spend the money appropriated out of the insular treasury for the benefit of the people for educational and road improvements directed by the central authority. The fact that the recent, and for a time seemingly incurable, tendency to disturbance in Samar has grown out of a similar cause in that island, I have already commented on in connection with another subject.

The city of Manila has not been given autonomous government. It is under the control of a municipal board of five persons appointed by the central government and is governed therefore as Washington or the City of Mexico is governed. In the proper improvement of Manila, some six or eight millions of dollars had to be expended and much business experience and foresight were required to build the new waterworks and the new sewer system, to repave the streets, to canalize the esteros, or creeks, to organize an effective police force and a new fire department. It was thought that it would not be safe to intrust the



conduct of such important business matters to a body selected by the electorate of Manila for the first time. The city of Manila has been well governed. Very large sums of money have been expended in most extensive improvements and not the slightest scandal or dishonesty has been charged in any of the city administration. It has offered a most useful model for other municipalities in the Islands to follow and has lent her engineers, her policemen, and her firemen to other towns to help the latter to better organization.

This review of shortcomings in municipal governments in the Philippines should not have the effect of discouraging those who are interested in the success of the experiment. They should be reminded that in the United States, municipal government has not been such a shining success. Moreover, the defects pointed out are not found in all Filipino towns. They have been referred to only to qualify properly the statement, which I do not hesitate to make, that autonomous municipal governments are making good progress and are gradually accomplishing the purposes for which they were created, though not so efficiently as with a people more used to governing themselves, more trained and educated in the assertion of their rights, and imbued with a higher standard of public duty. When those responsible for the policy of autonomy in municipal and provincial governments assert that it is progressing successfully, they find their words to be construed by enthusiastic theorists, who are convinced *a priori* of the complete fitness of the Filipinos to govern themselves, as completely establishing the correctness of their view; and when, on the other hand, they point out the defects in such local governments they meet the cry made by pessimists and by thick and thin adherents of the English crown-colony system that this is an admission of failure and a concession that we have gone far too fast in intrusting local governmental power of the Filipinos.

The truth, as I conceive it, lies between the two extreme positions, and while the policy adopted does not secure the best municipal government which might be secured under American agents, it does provide a fairly good government, with a training and experience and educational influence upon the people which is slowly but progressively curing the defects incident to a lack of political training and proper political ideals. The result indicates neither that the Filipinos are fitted at once for complete self-government nor does it justify the view that they may not be ultimately made capable of complete self-government by a gradual extension of partial self-government as they may become more and more fit to exercise it.

When we come to the provincial governments, we naturally have to deal with a higher order of public servants, and although we here and there find the defects I have described as occurring in municipal governments, they are less glaring and less discouraging. The truth

is, that with the guidance of the provincial treasurer, who is an American, and the sense of added responsibility that the presence of two Filipinos in the provincial board has instilled in them, the provincial officials begin to take pride in the good condition of their province. This has been stimulated by close and constant correspondence between them and the central government at Manila, represented by the assistant executive secretary, Mr. Frank Carpenter, in which provincial matters are discussed, by an annual conference of provincial governors at Manila, and by conditional contributions from the central government to provincial funds for various forms of provincial efficiency, and is evidenced by the greater amounts devoted by the provinces to the construction of public buildings, the repair and construction of roads and bridges and by the husbanding of resources and the keeping down of salaries.

The system of examination of the finances of the municipalities and of the provinces is now, as conducted in the Islands, very complete, and in one large printed volume is published the balance sheet of every province and of every municipality in the Islands for each fiscal year, so that it is possible to take a bird's-eye view each year of the financial progress made in the management of each province and town. The improvement in the financial condition of the provinces over and above what it was four or five years ago itself speaks forcibly in favor of the progress which has been made by Filipinos in provincial government.

One of the early difficulties in provincial government already pointed out was the lack of tax resources, which prevented payment of adequate salaries or the making of much-needed improvements. With the sympathetic aid and suggestion of the central government, and by the voluntary assumption of greater taxes by the people, all the provinces, save two or three, have made themselves self-supporting and have been enabled to pay good salaries. They differ largely in the amount of money that they have been able to devote to the construction of public buildings and to roads and bridges, but they are certainly beginning to appreciate the necessity for effort in this direction, and while they have refused thus far to adopt the system of a few days' enforced labor commutable by taxes, they are gradually coming to the adoption of a poll tax for public roads which in its essence and its alternatives will ultimately be an equivalent of such a system.

The report of the Auditor of the Islands shows a most gratifying improvement in the financial condition of the towns and provinces for the last five years. While the financial condition is not invariably indicative of the general character of a municipal or provincial government, a steady improvement in it from year to year is reasonably good evidence that matters of government are mending in every way.

The question of roads and bridges has not yet been solved in the Philippines. There remains yet an enormous amount of labor and capital to be expended for this purpose, but the seeds have been sown which I am convinced will lead, under the executive force and great interest of Mr. W. Cameron Forbes, the secretary of commerce and police, to the adoption of a caminero system of road repairs and maintenance which will make the intercommunication by wagon road between the various parts of the various islands satisfactory. I shall not stop to dwell on the great inherent difficulty that there is in the construction and repair of roads in the Philippines. The absence of suitable material and the destructive effect of every wet season sufficiently account for the present unsatisfactory condition in this respect. The principle rigidly adopted and enforced now is, however, that no bridge and no public building shall be constructed of anything but permanent materials—either concrete, hard wood, or metal—or iron or steel, and that no road shall be built except in a manner which shall enable local authorities, with reasonable expense, to keep it in permanent repair. In times past the necessity for haste and supposed economy has led to the use of softer woods and temporary methods of construction, which are now turning out to be much more costly than if the original expenditure had been greater.

#### CIVIL SERVICE.

The organization and maintenance of the central government were directed not only with a view to its efficiency, but also to its educational effect upon the Philippine people. This is shown in the appointment of three Filipinos to constitute three-eighths of the insular legislature, as well as by the opportunity offered to Filipinos to enter the civil service under a civil-service law embodying the merit system. In the beginning it was difficult to work Filipinos into the bureaus of the central government, because few of them knew English and fewer understood the American business and official methods, which, of course, obtained in the new government. As the years went on, however, under great pressure from the Commission, the proportion of Filipinos in the service was increased from year to year. Many natives had learned English and had shown an increasing aptitude for the work of the civil service. Still in many of the bureaus the progress of Filipinos to the most responsible places is necessarily slow and the proportion of them to be found in the positions of high salaries is not as large as it ought to be in the near future. The winnowing-out process, however, is steadily reducing the American employees in the civil service. It has become a body of highly deserving, faithful public servants, whom, it is hoped, the Philippine government will make permanent provision for by

secure tenure for a certain number of years with a reasonable retiring pension.

As was inevitable in the complete organization of a government effected within a few months, experience indicated that greater economy might be secured by a reduction in the number of bureaus and bureau chiefs, by the consolidation of offices and bureaus, and by the still further substitution of competent Filipinos for higher-priced Americans.

It is now nearly three years ago, therefore, since a committee of insular officials with Commissioner Forbes as chairman was appointed to make a vigorous investigation into the entire governmental system. The committee made radical recommendations as to curtailment, most of which were adopted and resulted in a very material decrease in the cost of government and increase in the proportion of Filipino employees.

In the department of justice, including the judiciary, the proportion of Filipinos had always been high. The chief justice of the supreme court and two of his associates were Filipinos, while nearly half of the judges of the courts of first instance were also natives. All but two of the prosecuting attorneys in the 35 provinces, all the justices of the peace, and nearly all the court officers were Filipinos. For two years the attorney-general of the Islands has been a Filipino.

The changes in the proportion of Filipino civil servants to the whole number from year to year can be seen in the following table:

	Americans.	Filipinos.
1901 .....	2, 044	2, 562
1902 <sup>a</sup> .....		
1903 .....	2, 777	2, 697
1904 .....	3, 228	3, 377
1905 .....	3, 307	4, 023
1906 <sup>a</sup> .....		
1907 .....	2, 616	3, 902

<sup>a</sup> Statistics not available.

#### CIVIL RIGHTS.

Before discussing the provision for the national assembly and its influences, educational and otherwise, I must refer to the effort of President McKinley to extend to the Filipinos the guaranties of life, liberty, and property, secured by the Federal Constitution to those within Federal jurisdiction. The guaranties assured in the instructions of Mr. McKinley included all those of the Federal Constitution except the right to bear arms and to trial by jury.

The right to bear arms is one that can not safely yet be extended to the people of the Philippines, because there are among those people men given to violence, who with the use of arms would at

once resort to ladronism as a means of livelihood. The temptation would be too great and ought not to be encouraged. Nor are the people fit for the introduction of a jury system. Not yet has any considerable part of the community become sufficiently imbued with the sense of responsibility for the government and with its identification with the government. This responsibility and identification are necessary before jurors can sit impartially between society and the prisoner at the bar. Without it they are certain always to release the prisoner and to sympathize with him in the prosecution against him. The fair treatment of the prisoner is sufficiently secured in a country never having had a jury trial by the absolute right of appeal from the decision of a single judge to the decision of seven judges, with a writ of error thence to the Supreme Court of the United States. It may be that in the future it will seem wise gradually to provide for a jury in various classes of cases, but at present it would be premature.

The civil rights conferred by Mr. McKinley's instructions were expressly confirmed by the organic act of July 1, 1902. It has been the purpose of the Philippine government to make the extension of these rights a real thing and a benefit for the poorer Filipino, and progress is being made in this direction. The great obstacle to it arises from the ignorance of the people themselves as to what their rights are and their lack of knowledge as to how those rights may be asserted.

The work of impressing a knowledge of these things upon the people goes, however, rapidly on, and with the education in English of a new generation and their succession to the electorate, we can be certain that the spread of education as to popular rights and the means of maintaining them will be wider and wider, until we can have a whole community who know their rights, and knowing, dare maintain them.

Charges have been made that the existing Philippine government has not properly preserved these guaranties of civil rights. It is true that the Commission has, in effect, suspended these guaranties in a condition equivalent to one of war in some of the provinces, and has been sustained in so doing by the supreme court of the Islands and of the United States. It is also true that during a condition equivalent to war the Commission provided that no one should advocate independence, even by peaceable means, because agents of insurrection were inciting actual violence under the guise of such peaceable propaganda. With the coming of peace, the statute ceased to have effect. To-day, however, the writ of habeas corpus runs without obstruction. The liberty of the press and of free speech is real. There is no censorship of the press and no more limitation upon its editors than there is in the city of Washington. The publication of

criminal libel or seditious language calculated and intended to cause public riot and disturbance is punishable in Manila and the Philippines as it is in many of the States of the Union. This freedom of discussion and this opportunity to criticise the government, educate the people in a political way and enable them more intelligently to exercise their political rights.

THE NATIONAL ASSEMBLY.

In recommending to Congress the provision for a national assembly contained in the organic act of the Philippine government, Secretary Root and the Commission were moved by the hope and belief that the promise in the act, conditioned, as its fulfillment was, on the existence of peace in the Islands, would stimulate activity on the part of all Filipinos having political ambition to bring about tranquillity. In this respect, as already pointed out, the result has abundantly vindicated their judgment. They were further moved by the conviction that this step toward greater popular self-government would strengthen the hands of the Government by securing from the people readier acquiescence in, and greater obedience to, measures which their representatives had joined in passing, than when they were the decrees of an alien government. They further believed that by means of the assembly much more exact and practical knowledge of the needs of the country would be brought to the law-making power than in any other way. Finally, they thought that the inauguration of such an assembly would be a most important step in the main plan or policy of educating Filipinos in the science and practice of popular representative government. They were aware of the possible danger that this was a step too far in advance. They did not deny that on the part of a number elected there would be a strong inclination to obstruct the smooth working of existing government on lines of political and material progress. They anticipated the probability that in the first assembly elected the majority would be in favor of immediate independence; but in spite of all this they were clear in their forecast that the responsibilities of power would have both a sobering and educational effect that would lead ultimately to conservatism of action and to strengthening the existing government.

Let us now consider what has happened in the electoral campaign for the assembly and in its early life as a legislative body.

The powerful influence for good and for peace exercised by the Federal Party in the period just after Mr. McKinley's second election I have dwelt upon at another place. The main purpose and principle of the party was peace under the sovereignty of the United States. In drafting a platform its leaders had formulated a plank

favoring the organization of the Islands into a Territory of the United States, with a view to its possibly becoming a State. From this plank it took its name. In the first two or three years after its successful effort to bring on peace, many prominent Filipinos having political ambition became members, and in the gubernatorial elections the great majority of governors elected were Federals. And so substantially all who filled prominent offices in the government by appointment, including the judges, were of that party. Then dissension arose among prominent leaders and some withdrew from the party. The natural opposition to a government party led to the organization of other parties, especially among those known as Intransigentes. The Federal Party had founded an organ, the *Democracia*, early in its existence. The opponents of the government looking to immediate independence founded a paper called the *Renacimiento*. The latter was edited with especial ability and with a partisan spirit against the American Government.

For two years before the election of the Assembly the Filipinos who sympathized with the *Renacimiento* were perfecting their organization to secure a majority in the assembly. Many groups were formed, but they all were known as the *Partido Nacionalista*. There was some difference as to whether to this title should be added the word "inmediatista," but the great majority favored it. The party is generally known as the *Nacionalista Party*. During much of these same two years, the Federal Party was dormant. The proposition for statehood did not awaken enthusiasm anywhere. Many of the leaders were in office and felt no necessity for vigorous action. The quarrel between some of the directors had given the party paralysis. The party was not organized for political controversy with another party at the polls. It was merely an organization to give effective resultant force to the overwhelming feeling in favor of peace under United States sovereignty, and it was not adapted to a political fight on issues that were not in existence when it was at the height of its power for usefulness. On the other hand, in the Federal Party were many of the ablest and most conservative of the Filipinos, and it seemed wise that this nucleus should be used to form a party that represented conservatism on the issue as to independence, which the opponents of the government determined to force into the campaign for members of the assembly. It was an issue hardly germane to the subject-matter within the jurisdiction of the assembly, but it had to be met. The issue whether the Islands should have immediate independence turned on the question whether the Filipino people are now fit for complete self-government. Upon this question it was entirely natural that the burden should fall upon those who asserted the negative, and it is not strange that the electors, or a majority of them,

should believe themselves and by their votes decide themselves to be competent.

Some six months before the elections, there sprung from the ashes of the Federal Party a party which, rejecting the statehood idea, declared itself in favor of making the Philippines an independent nation by gradual and progressive acquisition of governmental control until the people should become fitted by education and practice under American sovereignty to enjoy and maintain their complete independence. It was called the Partido Nacionalista Progresista. It is generally known as the Progresista Party. The Progresista leaders were late in the field and were somewhat at a disadvantage on this account; but after they entered the fight they were energetic and vigorous. They did not mince words. They took the position fully and flatly that the people of the Philippines were not fitted for immediate independence and complete self-government and needed much education and experience before they should become so. It was natural to suppose that the cry of complete fitness for self-government was the popular one and that it would attract votes. This impression showed itself in a somewhat amusing way. The first independence party, as I have said, called itself the Partido Nacionalista Inmediatista. The title and organization were not radical enough for a group that broke away and called itself Partido Nacionalista Urgentissima, which was supposed to indicate a party whose yearning for independence was greater than that of those who wished it immediately. This was followed by the organization of a new group who showed that they were not to be outdone in the fervor and anxiety with which they sought independence and votes for their candidates by calling their party Partido Nacionalista Explosivista.

The campaign in the last two or three months was carried on with great vigor. The Nacionalistas had the advantage of being understood to be against the government. This, with a people like the Filipino people, who had been taught to regard the government as an entity separate from the people, taxing them and prosecuting them, was in itself a strong reason for popular sympathy and support. The Progresistas were denounced as a party of officeholders. The government was denounced as extravagant and burdensome to the people. In many districts the Nacionalista candidates promised that if they were returned immediate independence would follow. There were quite a number of candidates in country and remote districts where the controversy was not heated who did not declare themselves on the main question, and maintained an independence of any party. They were known as Independientes. Then, there were other Independientes who declared themselves independent of party, but in favor of immediate independence.



The elections were held on July 30. Members were elected from 80 districts into which the Christian Filipino provinces were divided. The result of the canvass was the election of 16 Progresistas, 1 Catolico, 20 Independientes, 31 Nacionalistas, 7 Inmediatistas, 4 Independistas, and 1 Nacionalista Independiente, in all 80 members.

The total vote registered and cast did not exceed 104,000, although in previous gubernatorial elections the total vote had reached nearly 150,000. The high vote at the latter elections may be partly explained by the fact that at the same elections town officers were elected, and the personal interest of many candidates drew out a larger number of electors. But the falling off was also in part due, doubtless, to the timidity of conservative voters, who, because of the heat of the campaign, preferred to avoid taking sides. This is not a permanent condition, however, and I doubt not that the meeting of the assembly and the evident importance of its functions when actually performed will develop a much greater popular interest in it, and the total vote will be largely increased at the next election.

I opened the assembly in your name. The roll of the members returned on the face of the record was called. An appropriate oath was administered to all the members and the assembly organized by selecting Señor Sergio Osmeña as its speaker or presiding officer. Señor Osmeña has been one of the most efficient fiscals, or prosecuting attorneys, in the Islands, having conducted the government prosecutions in the largest province of the Islands, the province and island of Cebu. He was subsequently elected governor, and by his own activity in going into every part of the island, he succeeded in enlisting the assistance of all the people in suppressing *ladronism*, which had been rife in the mountains of Cebu for thirty or forty years, so that to-day there is absolute peace and tranquillity throughout the island. He is a young man not 30, but of great ability, shrewdness, high ideals, and yet very practical in his methods of dealing with men and things. The assembly could have done nothing which indicated its good sense so strongly as the selection of Señor Osmeña as its presiding officer.

Many successful candidates for the assembly seem to have embraced the cause of the Inmediatistas without having thought out deliberately any plan by which a policy of immediate independence could be carried out. They joined the party and united in its cry because it was a popular one and because they thought that this was an easy method of being elected, or rather because they thought that without this, election would be difficult. When the assembly met it was quite apparent that the great majority were much more anxious to vindicate their election as a dignified, common-sense, patriotic branch of the legislature by a conservative course than to maintain consistency between their acts as legislators and their ante-election declarations.

There are, of course, some members who are likely at times to make speeches containing violent language, but on the whole there seemed to be during my stay in the Islands, of two or three weeks after the organization of the assembly, a very earnest wish that the assembly should show the conservatism which many of us believe exists in the Philippine people, rather than it should give a weapon to the enemies of the people and popular government by extravagance and useless violence of speech.

Since I left the Islands the Assembly has voted for two resident commissioners to represent the Islands at Washington as provided in the organic act of the Philippine government. These commissioners are elected by the Assembly and the Commission sitting in separate session. The two candidates tendered by the Assembly to the Commission and accepted by the latter were Mr. Benito Legarda, at present one of the Filipino Commissioners, and Mr. Pablo Ocampo, of Manila. Mr. Legarda is one of the founders of the Federal Party and a Progresista. He has been many times in the United States and speaks English. He is one of the most prominent and successful business men in the Islands, and a public-spirited citizen of high character. Mr. Ocampo was an active sympathizer with the insurrection and acted as its treasurer. He was deported to the island of Guam by the military authorities in the days of the military government. He is a prominent and able member of the bar of the Islands and a man of high character. He took part in the organization of the Nacionalista Party which he wished to have called Unionista. He is understood to have objected to the word "inmediatista" and to have withdrawn from the party on that account.

As a shibboleth—as a party cry—immediate independence has much force, because it excites the natural pride of the people, but few of their number have ever worked out its consequences, and when they have done so they have been willing to postpone that question until some of the immediate needs of the people have been met. I may be wrong, but my judgment is that the transfer of real power by giving to the people part of the legislative control of the Christian provinces sobers their leaders with the sense of responsibility and teaches them some of the practical difficulties of government. They wish to vindicate their view in respect to their fitness to govern themselves completely by exercising the power of the government which has been accorded to them in a way to make the people of the United States and of the world believe that when greater power is extended, they may be trusted to exercise that with equal discretion and conservative common sense. They are now a real part of the government of the Islands. Nothing can be done affirmatively without the consent of the Assembly. They have been through one election and have

made election promises. Many of those promises, such as the promises of immediate independence, were of course entirely beyond the authority of the promisers. When they go back to their constituents at the next election they will find facing them not only their ante-election promises, but also responsibility for legislation and failure to legislate which will introduce new issues of a practical character, and will necessitate explanation and a caution of statement that was entirely absent in the first campaign. All this can not but have a wholesome effect upon the politics of the Filipinos and the Philippines. I do not for a moment guarantee that there will not at times be radical action by the Assembly, which can not meet the approval of those who understand the legislative needs of the Islands, but all I wish to say is that the organization and beginning of the life of the Assembly have disappointed its would-be critics and have given great encouragement to those who were responsible for its extension of political power.

The Inmediatistas, having a majority in the Assembly, are prone to divide into groups. The Independientes are organizing as a party, drawing tighter party lines, and at times act with the Progresistas, who, with their 17 votes, are enjoying the advantage of the minority party in maintaining a solidarity and party discipline that it is impossible for the leaders of the majority and the controlling party to attain. It would not be surprising if at the next election there should be a readjustment of party lines and division on other issues than those which controlled at the first election.

While I was in the Islands, provincial elections were held, at which were elected governors and third members of the provincial boards. The elections were held on party lines. The total vote exceeded that at the Assembly by more than 50 per cent. Of the governors elected, 15 were Nacionalista and 15 were Progresista. Of the third members, 15 were Nacionalista, 13 were Progresista, and 2 were of unknown party affiliation. From this it would seem that the Nacionalista victory in the assembly election should not be taken as an assurance that a permanent majority of the electors will continue to favor immediate independence.

The Assembly has shown a most earnest desire, and its leaders have expressed with the utmost emphasis their intention, to labor for the material prosperity of the Philippines and to encourage the coming of capital and the development of the various plans for the improvement of the agriculture and business of the Islands which have commended themselves to those in the past responsible for the government there. In other words, thus far the Assembly has not manifested in any way that obstructive character which those who have prophesied its failure expected to see, and who, in this respect,

paradoxical as it may appear, are equally disappointed with those anti-imperialists who have hopefully looked to the Assembly as a means of embarrassing the present government.

The organization of the Assembly is one of the great steps in the education of the Filipino people for complete self-government. One of the assumptions which must be guarded against, but which we always encounter, is that the conservative and successful use by the people of an instrumentality like that of the national Assembly is convincing proof of the people to enjoy greater power and reason for an instantaneous granting of that power. This is at variance with the theory upon which the power is granted. That theory is that the use of such an instrument is valuable chiefly as a means of educating those who use it to the knowledge of how it ought to be used and to conservatism in its use. The fact that on receiving it the people use it conservatively is by no means sufficient proof that if it were not subject to ultimate control, guidance, and restraint by the agents of the United States, it might not be misused. It is most encouraging to find it conservatively used and vindicates those who urged its adoption, but it is far from demonstrating that this conservative use, subject to the limitations upon its power which now exist and which have a necessary tendency to make its use conservative, would be preserved under conditions in which those limitations were entirely removed. The moderate use of such an Assembly for a reasonable time may properly form a ground for the greater extension of power and the removal of some of the limitations. Progress in such a matter to be safe must be gradual.

I can not refrain from saying at this point that the attitude of the national Assembly has been much influenced by the confidence that the members and the Filipino people have in the sense of justice and impartiality of Governor-General Smith and the deep sympathy which they know he feels in their welfare and in their hopes of continued progress. He knows the Filipino people better than any other American, and he spares no effort to reconcile their real needs and their earnest desires.

I have reviewed the history of the governmental organization in order to show the consistency of the American Government in adhering to the policy laid down by President McKinley, of gradually extending self-government to the Filipinos as they shall show themselves fit. We first, therefore, have the autonomy of the municipality, restrained by the disciplinary action of the governor-general, the restraint upon the expenditure of its funds by the provincial treasurers, and the audit of its funds by the central authority; second, the partial autonomy of the provincial governments in the election of a governor, the more complete autonomy by the constitution of the provincial board of two elective members out of three, the restraint upon

the board by the presence of a member of the provincial board appointed by the governor, the visitatorial powers of the governor-general for disciplinary purposes in respect of the provincial officers, the restraining influence and assistance of the central constabulary force, the modification of complete American central control by the introduction of three appointed Filipinos into the Commission, followed after five years by the inauguration of a completely popular elective Assembly to exercise equal legislative power with the Commission. This progressive policy has justified itself in many ways, and especially in the restoration of order to which I have already referred.

#### SANITATION.

There is always present in every picture of Philippine progress as painted by those who have not carefully investigated the facts, a somber background of a baneful climate making it impossible for the American or European to live in health and strength in the islands for any length of time. It is true that the islands are in the Tropics, and that the variations in temperature are only about a third as much in extent as in the Temperate Zone; but, for a tropical climate, that of the Philippines is exceptionally comfortable and healthful. The monsoons blow six months from southwest across the islands and six months from the northeast, so that they are constantly windswept. This makes a radical difference between the climate of the islands and that of the lowlands of India for instance. The last two decades, especially the latter, have taught us much in respect to tropical diseases, their causes, their proper treatment, and the best method of avoiding them. This was one of the most valuable results of the Spanish war.

In his address as president of the Philippine Medical Association, in March, 1905, Dr. John R. McDill, who came first to the islands as a leading army surgeon and who left the Army to carry on a most successful practice in Manila, said:

We have come to esteem to the utmost the climate which so effectually guards many of you against the too strenuous life and which is almost ideal eight months in the year, even in Manila. Our professional experience has proven that, excepting some intestinal disorders which we are rapidly preventing and curing, and a limited amount of epidemic infectious diseases, there is nothing unusual about the kind or amount of disease encountered here, or its successful treatment when hospital care is available. The surgeon's work has fully demonstrated that ideal wound healing and convalescence after operation is as much the rule here as anywhere in the world. We physicians also know that, and appreciate that the dread diseases of childhood so prevalent at home are rare here, and that of all the ills particularly among women from real bodily ailments to a poor complexion for which the climate is usually blamed, the great majority are hereditary or acquired, were brought here by the patient and often aggravated by careless and unhygienic living. For old people and

children, the climate is an earthly elysium. \* \* \* With the improved and constantly improving conditions of living, we believe that almost all will agree that by observing the normal and moral life, healthy Americans can live about as long here and enjoy as good health and do as much good and hard work, more than three-fourths of the year, as we could in the home land.

The death rate among American soldiers in the Philippines for the last year was 8.5 per thousand, and the previous year 8.65. General Wood reports that the size of the sick report can not be properly charged to the climate, that, taken as a whole, the reports for the years indicate a decided improvement in health conditions, and that the men leaving the islands after a regular tour of more than two years present a far better appearance than those of the incoming.

The death rate among American civilians in Manila for the fiscal year ending June 30, 1907, was 5.59 per thousand, a reduction from the previous year. The death rate among Filipinos this year in Manila was 36.9 per thousand and among Spaniards 15.84, both reductions from the previous year.

During the decade of our stay in the islands, the conditions of life for Americans have steadily bettered. We have become acquainted with hygienic methods of living, and the death rate of Americans of the same social condition in the Philippines is certainly not greater than in the cities of the Southern States, and is, as we have seen, very much less than that among Filipinos.

If the United States is to continue its governmental relations with the Philippines for more than a generation, and its business and social relations indefinitely, the fact that Americans can live healthful lives in the Philippines is important of itself; but I have cited these statistics and this expert opinion to show more than this—I believe that it has an important bearing upon another kind of progress possible among the Filipino people, and that it opens another important field of education for the American government to cultivate in the islands.

No one can be in the Philippines long without realizing that as a race the Filipinos are small of stature, slight of frame and flesh, and with small powers of resistance to epidemic diseases. It has been supposed that because of their nativity the Filipinos were not subject to the malarial, intestinal, and dysenteric troubles that afflict Americans and Europeans, and that measures taken to avoid or cure such troubles in the case of the foreigner were unnecessary and superfluous with the Filipinos. Recent investigations of a systematic kind, carried on by keeping comparative statistics of all the official autopsies made in the islands, seem to show that the assumption that the Filipinos are immune from the forms of disease I have mentioned is without foundation. The autopsies of 100 cases showed in a great majority the germs of malaria, of amœbic dysentery, and that microbe of the so-called "lazy" disease of Porto Rico known as the "hookworm." It is true

that the diseases were not active or acute, but their presence in the system of course weakened the constitution of the subject and could easily explain his anæmic condition, his smallness of stature, and small powers of resistance. Malaria, of course, is produced or at least transmitted by the mosquito, while amoebic dysentery and the "lazy" disease are water-borne and proceed directly from the miserable sources of water supply in most Filipino towns. Proper precautions can avoid all these; or at least can greatly reduce the number of victims.

In Manila, 60 per cent of all infants born die during the first year of their lives, and there is no reason to believe that infant mortality in other parts of the islands is less. This frightful percentage is brought about by ignorance and neglect of the mothers in feeding their babies. There are very few if any milch cows in the islands, and the little ones are fed with all sorts of impossible things. They die generally of a lack of nourishment. There is no reason why, if the mothers were correctly taught and proper infant food were brought within the reach of the poor, this awful rate of infant mortality might not be reduced. Not only is there an actual loss of life which might be avoided, but the babies which live through such treatment and nourishment are not apt to make strong men and women, but are likely to become victims of anæmia and other diseases mentioned as shown in the autopsies I have referred to.

I do not think it is unjust to the Spanish régime in the Philippines to say that very little if any attention was paid to sanitation according to modern methods. In the city of Manila and in the other large towns of the islands the American military medical authorities, who were the first to assume responsibility for the health of the islands, found the same utter disregard of the proper rules for the disposition of house sewage that was found in Habana. Thousands, yes, tens of thousands, of Filipinos were carried off year after year by a peculiarly virulent type of smallpox.

In Manila, in Cebu, and in Nueva Caceres, respectively, were leper hospitals, but in each the management was inefficient and the care of the inmates poor. More than this, no supervision was exercised to isolate lepers not in hospitals. Some times the poor creatures were driven out of villages by popular riots and herded together with no proper food and no shelter. The contact of lepers with the people of course only increased the number of cases of the dread disease.

In 1885 or 1886 the islands were visited by an epidemic of cholera and the prostration of the people of Manila and the Philippines, due to the rapid spread of the scourge, beggared description. In Manila the deaths were 1,000 or more a day from that cause alone for a number of weeks. The trade proximity of Manila, Iloilo, and Cebu, to China, India, Java, Burma, and the Straits Settlements, makes the

danger of transmitting tropical and other infectious diseases very much greater.

Quarantine in Spanish times was lax. The American Army medical authorities took hold of the matter of sanitation in their usual vigorous way and made much progress in the matter of quarantine and in correcting the glaringly insanitary conditions in Manila. But it remained for the civil government to effect a thorough organization of a health department which could do permanent good.

The introduction of sanitary methods by law among the people has given rise to more dissatisfaction and greater criticism of the government than any other one cause. The truth is that the people have to be educated in the effectiveness of such methods before they can become reconciled to them, and the work of the health department since the beginning of the civil government in 1901 has been obstructed, first, by the inertia and indifference of the people in respect to the matter, and second, by their active resistance to affirmative restraints upon them necessary to prevent disease.

The fight against smallpox has been so successful that in the past year not a single death from it occurred in Manila, and in the provinces of Cavite, Batangas, Cebu, Rizal, Bataan, La Laguna and La Union, where, heretofore there have been approximately 6,000 deaths per year not one was reported. In the few places in other provinces where smallpox appeared it made little headway. More than 2,000,000 vaccinations against smallpox were performed last year, and vaccination is being carried on so that it will reach every inhabitant of the islands.

In 1902 Asiatic cholera appeared. The loss the first year by reason of the methods introduced was much less than it had been fifteen or sixteen years before, but great difficulty was encountered in putting into force the health regulations and a futile attempt was made to establish quarantine between localities in the islands. Since that time a better system of isolation and stamping out the disease in the locality where it appeared has been followed, and it is gratifying to note that although the dread disease appeared each year, it was finally brought to an end on November 27, 1906, and the authorities now feel that the people have been so thoroughly roused to the best methods of treating the disease that any local reappearance of it can be readily suppressed.

In 1902 or 1903 the bubonic plague appeared in the islands. This has been suppressed by the isolation of all persons suffering from the disease and the destruction of plague-infected rats so that during the last year there were no cases of bubonic plague whatever.

When the Americans first began government in the Philippines it was reported that leprosy was so widely extended in the islands that there were probably from 25,000 to 50,000 lepers to be cared for.



After many unsuccessful efforts a leper colony has finally been established at Culion, a healthful and attractive island between Panay and Palawan, to which all the lepers of the islands are now being gradually removed. The number probably does not exceed 3,000. The course pursued is to take each province separately and by thorough investigation of the reported cases of lepers, determine those of true leprosy and to remove them thence to the colony of Culion. The experiment at first was a doubtful one because of the objection of the lepers to being taken so far away from their homes, and some of the friends of lepers made vigorous objections to this course. After the removal of the first 500, however, and when they found how comfortable and agreeable life at Culion was, the objections ceased. Leprosy as a disease usually does not directly kill its victims, but it so weakens the powers of their resistance that the rate of mortality from other causes among lepers is very high. The system of isolation and withdrawing lepers from the thickly populated communities has been at once justified by the reduction in the number of new case. The number of known lepers in the archipelago on September 1, 1905, was 3,580; on June 30, 1907, it was 2,826, a decrease of 654, due to the death of the known lepers without any spread of the disease as had been the case in previous years and under different conditions. The policy of removal of lepers is one which can only be carried out gradually and has been applied only to a part of the provinces, but it will probably be completed in three or four years when all the lepers will be removed to Culion and the effect of this isolation will certainly be to reduce the infection of healthful persons with the awful disease to a minimum.

The fruitful source of the spread of amœbic dysentery is the drinking of impure water. The water supply of Manila is drawn from the Mariquina River after it has passed through three or four thickly populated towns and an immense amount of trouble and labor has been expended in trying to preserve the river from contamination by these towns. Military forces have been picketed along the banks and the most stringent regulations have been enforced against the inhabitants. Much has been accomplished in this matter, but still the water is dangerous to drink unless boiled and filtered. With a view to the removal of this difficulty, new waterworks are in the process of building at a cost to the city of Manila of about two millions of dollars. The water is to be drawn from a point very much farther up the Mariquina River, at a distance of about 25 miles from Manila, and is to be accumulated in a reservoir by damming the river at a point where nature apparently intended a dam to be put. Pure mountain water will thus be obtained which is to be carried to the city of Manila simply by the power of gravity. The new improvement is 80 per cent done and water will flow into the city probably by July of 1908.

In addition to this a new sewer system has been projected and is under construction in the city of Manila and 18 miles of the deep and main trunk sewers have been laid in the city. The mileage of the remainder of the sewers is very much greater, but the engineer estimates that about half of the work has been done. The project contemplates the establishment of reservoirs and the pumping of sewage out into the bay at such a distance as to prevent its retaining any noxious character. The difficulty of sewerage Manila can be understood when it is known that the level of the ground in the city is only a few feet above high water mark. With the completion of the water and sewer systems and the canalization of the esteros or canals, with which the city is threaded, a work which is projected and which will cost about \$400,000, there is no doubt that Manila will become as healthful a tropical city as there is in the world.

The very high death rate in the city is due to the frightful mortality among the native infants under 1 year of age already alluded to. The absence of pure milk for babes in the Philippines accounts for a good deal of this mortality, and a charitable organization has been established for the circulation at reasonable cost of milk for infants among both the poor and rich classes. The destruction of all the horned cattle by rinderpest has reduced the supply of milk and made it expensive. This adds greatly to the difficulty presented. The lack of nourishment makes the child an easy victim to any disease, and until Filipino mothers are taught properly to bring up their children, we may expect this infant mortality to continue, but it is subject to cure, and the methods adopted by the government and the charitable organizations, including the churches, whose interest is aroused, may be depended on to bring about a reform in this matter.

It is a fact that throughout the islands too, a great deal of the mortality, among both children and adults, is due to water-borne diseases. The supply of water in each village is generally contaminated and noxious. The government has taken steps to induce every town to sink artesian wells for the purpose of giving its inhabitants pure water. Several well-boring machines have been purchased by the government and have been offered to the towns for use by them on condition of their supplying the fuel and the labor necessary. Wherever artesian wells have been sunk and a good supply of water found, the death rate in the town has been reduced 50 per cent. With a knowledge of the effectiveness of this remedy, it is certain that the government will continue to press upon the towns the necessity of the comparatively small expenditure necessary to secure proper water, for it appears that in most towns in the islands artesian water is available.

There is no reason why the whole Filipino race may not be made stronger and better by the pursuit of proper sanitary methods with

respect to the ordinary functions of life. The spread of education, the knowledge of cause and effect in this matter, together with the sympathetic assistance and regulation of the government are all that is needed to rid the Filipino of the obstructions to bodily growth and strength which injurious microbes and bacteria living in the body now create. The bureau of health and the bureau of science, which has actively aided the bureau of health in the investigations made, have now commended themselves to the Filipino people in such a way that there is every reason to hope that the foundation for better health in the islands has been permanently laid.

The government has this year established and begun a Government Medical School, the faculty of which is made up partly of Filipinos and partly of Americans, and the most modern methods of instruction are projected. A fine laboratory, already erected near the place where the medical school building is to be constructed and a general government hospital in the immediate neighborhood will furnish a nucleus for the study of tropical diseases and the proper methods of sanitation. The graduates of this college as they grow in number and spread all over the islands into regions most of which have never known a physician at all will greatly contribute to the physical change and development for the better of the Filipino.

The health department has been exceedingly expensive, and the amount taken from the treasury each year has been subject to much criticism, but the results are so gratifying that even the most capacious seems now willing to admit that the expenditure was wise, prudent, and justified. A most thorough quarantine has been established and maintained under the auspices of the United States Public Health and Marine-Hospital Service in the ports of entry in the islands.

As is well understood now the mosquito is the means of communicating malaria and yellow fever and other diseases. It is supposed that the *Stegomyia* mosquito, which carries the yellow fever, is found in the Philippines, although no case of the fever has ever occurred in the Islands. The importance of the mosquito in the Philippines is confined to malaria at present. Varieties of the insect carrying most malignant malaria are found to generate in the salt-water marshes, though ordinarily it has been supposed that the *Anopheles* mosquito conveying malaria generated only in fresh water. The wet season seems to interfere with the operations of the mosquito by throwing so much water into the streams as to prevent the stagnation necessary to their successful propagation. A singular instance of this is found in the old walled city of Manila. The old walled city has a sewer system for storm or surface-water drainage. During the wet season there is practically no malaria in the walled city, but during the dry season there is a great deal. It has been found that in the dry

season in the absence of rainy weather the sewers contain stagnant pools in which the *Anopheles* mosquito is generated in great numbers and thus carries on his business of conveying malaria from one inhabitant of the walled city to another, whereas in the rainy season the sewers are flushed all the time and there is no opportunity to the mosquito to propagate. Measures have now been taken to flush the sewers of the walled city in the dry season and rid the inhabitants of this pest until the new sewer system shall be put in operation, when the evil can be entirely eradicated.

#### BENGUET.—A HEALTH RESORT.

In all the tropical countries in which civilized government has been established and progress made toward the betterment of conditions of human life, places have been found and settlements effected in high altitudes where the conditions approximate in atmosphere and climate those of the Temperate Zone. This is true in India, in Ceylon, in Java, and wherever there are neighboring mountains which offer the opportunity.

The Philippines are fortunate in having a territory in Luzon in the mountains of an altitude ranging from 4,500 to 7,000 feet, a rolling country filled with groves of pine trees and grass, in which the temperature rarely goes below 40° and never goes above 80° in the shade. The province containing most of this territory is called "Benguet." Similar climate is found in the adjoining provinces of Lepanto and Bontoc. The railway from Manila to Dagupan has now been extended to what is called "Camp No. 1," a distance of 22 miles from Baguio, the chief town in Benguet, where is the government sanitarium and other places of resort and cure. At the cost of about two millions of dollars, the government has constructed a fine road up the gorge of the Bued River to a height of 5,000 feet. The work would probably never have been entered upon, had it been supposed that it would be so costly, but now that it is done, and well done, the advantages accruing and soon to accrue, justify the expenditure.

The representatives of all the churches in the islands have taken lots and are putting up buildings, hospitals of various kinds are to be erected, there is a sanitarium, the Commission holds part of its sessions there, and it is hoped that the assembly will see fit to do the same thing. A great many Filipinos recuperate by going to Japan or Europe, but here within easy distance of Manila will be offered an opportunity where the same kind of revitalizing atmosphere may be found as in a temperate climate. The Filipinos were at first disposed to criticise the expenditure on the ground that the road was built solely for the few American officials who expected to live there a large part of their time. The lots were offered at public auction and a great many were purchased by Filipinos, and

now it is generally understood that the value of such a place in the Philippine Islands has impressed itself upon the Filipino public at large. The present necessity is the construction of a railroad from Camp No. 1 directly into Baguio and steps have been taken to bring this about. A large military reservation has been set aside which it is hoped may be made into a brigade post for the recuperation of our soldiers while in the Philippines. The railroad is likely to have the patronage of those who spend part of their time at Baguio, going and coming from Manila and other parts of the islands, and also with the construction of a good hotel in Manila and another one at Baguio there is not the slightest reason to doubt that a large tourist patronage will be invited for both places. Meantime the health-giving influence of the climate at Baguio can not but exercise a good effect upon the young Filipinos who may be sent there to be educated and upon those Filipinos who have been subject to tropical diseases and have the time and means for visiting this mountain resort. With the construction of a railroad, transportation to Baguio may be made exceedingly reasonable and sanitariums built which will furnish for very moderate cost a healthful regimen and diet. Benguet is really a part of the system of government sanitation and may properly be mentioned in connection with it here.

*Comparative mortality from January 1, 1901, to September 30, 1907.*

Month.	1901.		1902.		1903.		1904.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January ....	753	a 36.25	760	a 36.58	602	a 28.98	796	b 42.64
February ...	689	a 36.72	706	a 37.63	511	a 27.23	709	b 40.59
March .....	885	a 42.66	770	a 37.06	589	a 25.94	751	b 40.23
April .....	886	a 44.07	1,327	a 66.01	549	a 27.31	748	b 41.40
May .....	903	a 43.47	1,688	a 81.26	770	a 37.06	766	b 41.03
June .....	621	a 30.89	1,418	a 70.54	592	a 29.45	800	b 44.28
July .....	608	a 29.27	2,223	a 107.02	620	b 33.21	866	b 46.39
August .....	702	a 33.79	1,712	a 82.42	862	b 46.17	1,032	b 55.28
September ...	767	a 38.15	1,132	a 56.31	1,228	b 67.97	1,064	b 58.89
October .....	855	a 41.16	927	a 44.62	1,217	b 65.19	1,018	b 54.53
November .....	848	a 42.18	1,035	a 51.48	974	b 63.91	957	b 52.97
December....	858	a 41.30	753	a 36.25	894	b 47.89	794	b 42.53

Month.	1905.		1906.		1907.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
January .....	685	b 36.69	737	b 39.47	632	c 33.31
February .....	608	b 36.05	595	b 35.28	473	c 27.59
March .....	563	b 30.15	600	b 32.13	464	c 24.45
April .....	530	b 29.32	555	b 30.27	416	c 22.65
May .....	526	b 28.16	600	b 32.13	462	c 24.35
June .....	593	b 32.81	693	b 36.72	402	c 21.89
July .....	747	b 40.00	1,451	b 77.72	515	c 27.14
August .....	841	b 45.03	1,182	b 63.31	653	c 34.41
September .....	1,013	b 56.06	835	b 46.22	768	c 41.82
October .....	850	b 45.51	684	b 36.64	.....	.....
November .....	944	b 52.24	653	b 36.14	.....	.....
December .....	841	b 45.03	597	b 31.98	.....	.....

a Death rate computed on population of 244,732 (health department's census).

b Death rate computed on population of 219,941 (official census, 1903).

c Death rate computed on population of 223,542 (health census, 1907).

*Mortality compared with same period of previous years.*

	First quarter.		Second quarter.		Third quarter.		Fourth quarter.	
	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.	Number of deaths.	Annual death rate per 1,000.
1901 .....	2,327	42.93	2,410	43.97	2,077	47.49	2,561	46.22
1902 .....	2,236	41.25	4,433	80.89	5,067	91.46	2,715	29.00
1903 .....	1,652	30.48	1,911	34.87	2,710	48.91	3,085	55.68
1904 .....	2,256	41.16	2,314	42.22	2,962	53.46	2,769	49.98
1905 .....	1,856	34.24	1,649	30.09	2,601	46.94	2,635	47.56
1906 .....	1,932	35.64	1,848	33.72	3,468	62.59	1,934	34.90
1907 .....	1,569	28.48	1,280	22.98	1,936	34.38	.....	.....

**MATERIAL PROGRESS AND BUSINESS CONDITIONS.**

I come now to material conditions in the islands and the progress that has been made in respect to them. While there is reason to hope that the mining industry may be very much improved and developed, the future of the islands is almost wholly involved in the development of its agricultural resources, and the business of the islands must necessarily depend on the question of how much its inhabitants can get out of the ground. In bringing about the reforms and making the progress which I have been detailing, the government has had to meet disadvantageous conditions in respect to agriculture that can hardly be exaggerated.

The chief products of the islands are abacá, or Manila hemp as it is generally called, the fiber of a fruitless variety of banana plant; cocoanuts, generally in the form of the dried cocoanut meat called "copra;" sugar, exported in a form having the lowest degree of polarization known in commerce, and tobacco exported in the leaf and also in cigars and cigarettes. There are other exports of course, but these form the bulk of the merchantable products of the islands. In addition to these, and in excess of most of them except hemp, is the production of rice which constitutes the staple food of the inhabitants. Some years before the Americans came to the islands the production of rice had diminished in extent because the hemp fiber grew so much in demand that it was found to be more profitable to raise hemp and buy the rice from abroad. In the first few years of the American occupation, however, during the insurrection and the continuance of the guerrilla warfare, and finally the prevalence of ladronism, many of the rice fields lay idle and the importation of rice reached the enormous figure of twelve millions of dollars gold, or about four-tenths of the total imports. With the restoration of better conditions, the production in rice has increased so that the amount of rice now imported is only about \$3,500,000 in gold, and the difference between the two importations doubtless measures the increased native production of the cereal.

During the six years of American occupancy under the civil government agriculture has been subject to the violent destruction which is more or less characteristic of all tropical countries. The typhoons have damaged the cocoanut trees, they have at times destroyed or very much affected the hemp production, and drought has injured the rice as well as the cocoanuts. The character of the tobacco leaf has deteriorated much because of a lack of care in its cultivation due to the loose and careless habits of agriculture caused by war and ladronism, and locusts have at times cleared the fields of other crops without leaving anything for the food of the cultivators.

The great disaster to the islands, however, has been the rinderpest, which carried away in two or three years 75 or 80 per cent of all draft cattle in the islands. This was a blow under which the agriculture of the islands has been struggling for now four or five years. Attempts were made, under the generous legislation of Congress appropriating three millions of dollars to remedy the loss if possible, to bring in cattle from other countries, but it was found that the cattle brought in not being acclimated died, most of them before they could be transferred to the farm, and then too they only added to the difficulty of the situation by bringing new diseases into the Philippines. It has been found that nothing can restore former conditions except the natural breeding of the survivors, and in this way it will certainly take five or six years more to restore matters to their normal condition. Meantime, of course, other means are sought and encouraged for transportation and for plowing. The difficulty in the use of horses is that an Indian disease called the "surra," which it has been impossible to cure, has carried off 50 per cent of the horses of the islands. Considering these difficulties, it seems to me wonderful that the exports from the islands have so far exceeded the exports in Spanish times and have been so well maintained that last year there was more exported from the islands than ever before in the history of the Philippines, as will be seen from the following table:

*Value of Philippine exports, 1903-1907 of American occupation.*

Fiscal year.	Hemp.	Sugar.	Tobacco and manufactures.	Copra.	All other.	Total.
	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>
1903.....	21,701,575	3,955,568	1,882,018	4,473,029	1,107,709	33,119,899
1904.....	21,794,960	2,668,507	2,013,287	2,527,019	1,246,854	30,250,627
1905.....	22,146,241	4,977,026	1,999,193	2,095,355	1,134,800	32,352,615
1906.....	19,446,789	4,863,865	2,389,890	4,043,115	1,173,495	31,917,134
1907.....	21,085,081	3,934,460	3,129,194	4,053,193	1,511,429	33,713,357
Average annual.....	21,234,925	4,079,885	2,282,716	3,438,342	1,234,857	32,270,726

NOTE.—Total exports do not include gold and silver coin.

The largest export showing in Spanish times, during years for which there are official statistics, was as follows:

*Value of Philippine exports in Spanish times, calendar years 1885-1894.*

Calendar year.	Hemp.	Sugar.	Tobacco and manufactures.	Copra. <sup>a</sup>	Total, including all other articles.
	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>	<i>Dollars.</i>
1885 .....	5,509,757	8,669,522	2,297,358	.....	20,551,434
1886 .....	4,340,058	7,019,978	2,010,093	5,781	20,113,847
1887 .....	8,161,550	6,156,709	1,559,070	26,809	19,447,997
1888 .....	8,099,422	6,271,030	2,449,181	131,347	19,404,434
1889 .....	10,402,614	9,101,024	2,255,494	209,820	25,671,322
Average annual .....	7,302,680	7,443,653	2,114,240	76,752	21,037,807
1890 .....	6,925,564	7,265,030	2,469,033	85,764	21,547,541
1891 .....	10,323,913	5,696,746	2,150,306	.....	20,878,359
1892 .....	6,886,526	7,768,595	2,535,740	743,918	19,163,950
1893 .....	7,697,164	10,368,883	2,438,304	414,652	22,153,223
1894 .....	7,243,842	5,476,617	1,576,175	1,172,191	16,541,842
Average annual .....	7,815,402	7,315,174	2,232,912	483,305	20,062,983

<sup>a</sup> Value of cocoanuts included.

NOTE.—Figures are taken from "Estadística general del comercio exterior de las Islas Filipinas," issued by the Spanish Government.

Total exports include gold and silver coin.

The chief export in value and quantity from the Philippines is Manila hemp, it amounting to between 60 and 65 per cent of the total exports. Its value has increased very rapidly of late and the result has been that much inferior hemp has been exported, because it could be produced more cheaply and in greater quantity. That which has made the hemp expensive and has reduced the export of it—for large quantities of it rot in the field still—is the lack of transportation and the heavy expense of the labor involved in pulling the fiber and freeing it from the pulp of the stem. Several machines have been invented to do this mechanically and it seems likely now that two have been invented which may do the work, although they have not been sufficiently tested to make this certain. Should a light, portable, and durable machine be invented which would accomplish this, it will revolutionize the exportation of hemp and will probably have a tendency to reduce its cost, but greatly to increase its use and to develop the export business of the Philippine Islands most rapidly.

#### SUGAR AND TOBACCO—REDUCTION OF TARIFF.

There is a good deal of land available for sugar in the Philippines, but there is very little of it as good as that in Cuba, and the amount of capital involved in developing it is so great that I think the possibility of the extension of the sugar production is quite remote. The moment it expands, the price of labor which has already increased 50 to 75 per cent will have another increase. All that can really be expected



is that the sugar industry—and this is also true of the tobacco industry—shall be restored to their former prosperity in the earlier Spanish times when the highest export of sugar reached 265,000 tons to all the world.

The tobacco industry needs a careful cultivation which, under present conditions, it is very difficult to secure. The carelessness with which the plant is grown and the defective character of the leaves is such as to make the manufacturers of cigars and tobacco in Manila despair of using the Philippine product without the addition of the wrappers either from Sumatra or the United States.

All that a friend of the Philippines can hope for is that the sugar and tobacco industries shall regain their former reasonably prosperous conditions. The development of the islands must be in another direction. The question of labor and capital both must always seriously hamper the growth of sugar production. Nor would I regard it as a beneficial result for the Philippine Islands to have the fields of those islands turned exclusively to the growth of sugar. The social conditions that this would bring about would not promise well for the political and industrial development of the people, because the cane sugar industry makes a society in which there are wealthy landowners holding very large estates with most valuable and expensive plants and a large population of unskilled labor, with no small farming or middle class tending to build up a conservative, self-respecting community from bottom to top. But, while I have this view in respect to the matter, I am still strongly of the opinion that justice requires that the United States should open her sugar and tobacco markets to the Philippines. I am very confident that such a course would not injure, by way of competition, either the sugar or the tobacco industries of the United States, but that it would merely substitute Philippine sugar and tobacco for a comparatively small part of the sugar and tobacco that now comes in after paying duty. Their free admission into this country would not affect the prices of sugar and tobacco in the United States as long as any substantial amount of those commodities must be imported with the full duty paid in order to supply the markets of the United States.

So confident am I that the development, which the sugar and tobacco interests of the United States fear in the Philippines from an admission of those products free to the United States, will not ensue to the injury of those interests that I would not object to a limitation on the amount of sugar and tobacco in its various forms, manufactured and unmanufactured, which may be admitted to the United States from the Philippines, the limitation being such a reasonable amount as would admittedly not affect the price of either commodity in the United States or lead to a great exploitation of the sugar and

tobacco interests in the islands. The free admission of sugar and tobacco up to the amount of the proposed limitation, for the purpose of restoring the former prosperity in these two products to the islands, is very important. There are two or three provinces, notably Occidental Negros and the island of Iloilo, the prosperity of which is bound up in good markets for sugar, and this is true also of some parts of Laguna, Cavite, Bulacan, and Pampanga, where sugar was raised in the old days with success and profit. In respect to tobacco, the need is not so pressing because the territory in which marketable tobacco culture prevails is by no means so great. Still it does affect three provinces, Cagayan, Isabela, and La Union.

#### FODDER.

The agricultural bureau of the government has been devoting a great deal of effort and time and money to experimenting in agriculture. They have made many failures and have not yet succeeded certainly in sowing a grass which will properly cure and may be used for hay. It is hoped that in certain of the higher altitudes alfalfa, and especially clover, may be raised successfully; and if so the very high price which has now to be paid for fodder imported from America may be avoided. This is a question which seriously affects the cost of the Army in the Philippines.

#### NEW PLANTS.

Through the agricultural bureau a new industry has been developed, that of raising maguey, a plant, the fiber of which is much less valuable than that of Manila hemp, but which has a good market whenever it is produced in quantities. The rapidity with which a great deal of land in the Philippines that heretofore has not been capable of profitable use is now taken up with the planting of maguey is most encouraging. The plants are being distributed by the agricultural bureau in the islands.

#### THE FINANCIAL CONDITION OF THE GOVERNMENT.

The financial condition of the government is as good to-day as it ever has been. The following table shows what it is, and the surplus on hand for emergencies is satisfactory:

*General account balance sheet of the government of the Philippine Islands for the fiscal year ended June 30, 1907.*

	Debit.	Credit.
<b>Surplus and deficiency account:</b>		
Balance from previous years .....		\$4, 439, 974. 02
Excess revenues over expenditures .....		2, 741, 606. 41
Excess resources over liabilities .....	\$7, 500, 782. 29	
Carried from suspense account .....		819, 201. 86
<b>Total .....</b>	<b>7, 500, 782. 29</b>	<b>7, 500, 782. 29</b>
<b>Insular revenues and expenditures:</b>		
Customs revenues .....		7, 990, 376. 57
Internal revenue .....		2, 684, 579. 24
Miscellaneous revenues .....		389, 440. 25
Insular expenditures .....	6, 968, 724. 86	
Payments to provinces .....	1, 438, 440. 40	
Losses under section 41, act 1402 .....	346. 20	
Allowances under section 42, act 1402 .....	501. 38	
Inter-bureau transactions .....		85, 223. 19
<b>Total .....</b>	<b>8, 408, 012. 84</b>	<b>11, 149, 619. 25</b>
<b>Excess revenues over expenditures .....</b>	<b>2, 741, 606. 41</b>	
	<b>11, 149, 619. 25</b>	<b>11, 149, 619. 25</b>
<b>Resources and liabilities:</b>		
The insular treasurer's cash balance .....	25, 033, 490. 93	
Gold-standard fund .....	1, 006, 753. 13	
Surplus on customs auction sales .....		466. 84
Invalid money orders .....		2, 047. 14
Outstanding liabilities .....		5, 229. 40
Loans to provinces .....	481, 137. 55	
Refundable export duties .....		413, 698. 89
City of Manila .....	3, 661, 255. 31	
Outstanding warrants .....		139, 136. 45
Friar lands funds .....	6, 670, 548. 06	
Moro Province .....	45, 646. 13	
Depository fund .....		3, 956, 263. 00
Silver certificate redemption fund .....		10, 770, 354. 00
Refundable internal revenues .....		331, 970. 30
Public works and permanent improvement fund .....	2, 198, 249. 70	
Congressional relief fund .....		236, 934. 79
Sewer and waterworks construction fund .....		1, 855, 081. 84
Insular treasurer's liability on unissued silver certificates .....	9, 702, 500. 00	
Unissued silver certificates .....		9, 702, 500. 00
Miscellaneous special funds .....		387, 095. 17
Provincial governments .....		1, 132, 743. 62
Philippine money-order account .....		182, 576. 54
United States money-order account .....		128, 201. 86
Bonded indebtedness .....		14, 500, 000. 00
Outstanding postal drafts .....		2, 283. 29
Friar land bond sinking fund .....	106, 216. 92	
Sewer and waterworks construction bond sinking fund .....		39, 898. 34
Rizal monument fund .....		1, 413. 20
Baguio town-site improvement fund .....		1, 525. 19
Collecting and disbursing officers .....	2, 384, 404. 42	
<b>Total .....</b>	<b>51, 290, 202. 15</b>	<b>43, 789, 419. 86</b>
<b>Excess resources over liabilities .....</b>		<b>7, 500, 782. 29</b>
<b>Total .....</b>	<b>51, 290, 202. 15</b>	<b>51, 290, 202. 15</b>
<b>Suspense account:</b>		
Transfer of funds .....		7, 674. 49
General account deposits .....		195, 263. 24
Accountable warrants .....		116, 264. 13
Carried to surplus and deficiency account .....	819, 201. 86	
<b>Total .....</b>	<b>819, 201. 86</b>	<b>819, 201. 86</b>
<b>Treasury account:</b>		
Balance from previous fiscal years .....	22, 461, 858. 40	
Receipts at the treasury .....	112, 780, 022. 27	
Withdrawals from the treasury .....		110, 347, 526. 19
Available for appropriation .....		5, 218, 817. 54
Appropriations undrawn .....		4, 948, 919. 94
Available for refundment or redemption .....		14, 726, 617. 00
<b>Total .....</b>	<b>135, 241, 880. 67</b>	<b>135, 241, 880. 67</b>

The following statement of revenues and expenditures of the Philippine government, exclusive of all items of a refundable character, covers the period from the date of American occupation, August 18, 1898, to June 30, 1907.

*Revenues.*

Fiscal year ended June 30—	Insular.	Provincial.	City of Manila.	Total.
1899 .....	\$3,558,682.83	.....	.....	\$3,558,682.83
1900 .....	6,899,340.53	.....	.....	6,899,340.53
1901 .....	10,753,459.95	.....	.....	10,753,459.95
1902 .....	9,371,283.11	\$2,008,480.88	\$1,199,593.21	12,579,357.20
1903 .....	10,757,455.63	2,527,252.93	1,541,575.85	14,826,284.41
1904 .....	10,249,263.98	3,295,839.47	1,931,129.97	15,476,233.42
1905 .....	11,549,495.37	3,107,912.91	1,441,165.82	16,098,574.10
1906 .....	11,468,067.16	4,509,572.02	1,995,289.85	17,972,929.03
1907 .....	11,149,619.25	4,604,528.31	1,691,341.93	17,445,489.49
Total.....	85,756,667.81	20,053,586.52	9,800,096.63	115,610,350.96

*Expenditures.*

1899 .....	\$2,376,327.12	.....	.....	\$2,376,327.12
1900 .....	4,758,793.66	.....	.....	4,758,793.66
1901 .....	6,451,528.37	.....	.....	6,451,528.37
1902 .....	8,189,404.59	\$1,633,158.22	\$622,294.81	10,444,857.62
1903 .....	10,249,533.40	1,981,261.22	1,177,611.67	13,408,406.29
1904 .....	11,122,562.38	2,339,826.10	1,578,303.50	15,040,691.98
1905 .....	12,248,857.33	1,474,320.43	2,574,102.78	16,297,280.54
1906 .....	10,146,779.12	4,335,091.32	2,492,392.23	16,974,262.67
1907 .....	8,408,012.84	4,736,038.20	1,560,801.40	14,704,852.44
Total.....	73,951,798.81	16,499,695.49	10,005,506.39	100,457,000.69

The bonded indebtedness is as follows:

Title of bonds.	Authorized by Congress.	Amount of issue.	Date issued.	Redeemable.	Due.
Land purchase bonds.....	Act of July 1, 1902 .....	\$7,000,000	Jan. 11, 1904	1914	1934
Philippine public improvement bonds:					
First issue.....	Act of Feb. 6, 1905.....	2,500,000	Mar. 1, 1905	1915	1935
Second issue .....	do .....	1,000,000	Feb. 1, 1906	1916	1936
Manila sewer and water supply bonds:					
First issue.....	Act of July 1, 1902, as amended by act of Feb. 6, 1905.	1,000,000	June 1, 1905	1915	1935
Second issue .....	do .....	2,000,000	Jan. 2, 1907	1917	1937
Total.....		13,500,000			

To meet the interest and principal on these bonds ample sinking funds have been provided, and the bonds are now held on the market, notwithstanding the present depression, at prices well above those for which they were originally sold.

**FRIARS' LANDS.**

The question of the disposition of the friars' lands is one which is occupying the close attention of the Secretary of the Interior and the Director of Lands. The price of the lands was about \$7,000,000.

Much delay has been encountered in making the necessary surveys and the disposition of them for the present has largely been temporary and at small rents in order to secure an attornment of all the tenants and the clear definition of the limits of the leaseholds claimed by them. This has involved considerable time and expense in making the necessary surveys. The injury to the sugar industry and the destruction of draft cattle has affected the price and character of the sugar lands, and they have been allowed to grow up in cogon grass. This will require the investment of considerable capital to put them in sugar producing condition. It is estimated that the salable lands would amount in value to something over \$5,000,000 and that the lands, mostly sugar, which are not now salable, and the plants which were bought with the lands, represent the other \$2,000,000 of the purchase price. It will take some years to work out the cost and it is possible, as already prophesied, that there will be a considerable loss to the islands, but as the purchase was based on political grounds and for the purpose of bringing on tranquillity, such a loss as that which was thought not improbable at the time of the purchase is amply compensated for in the general result.

#### FINAL SETTLEMENT IN RESPECT TO CHARITABLE TRUSTS AND SPANISH-FILIPINO BANK WITH ROMAN CATHOLIC CHURCH.

I have spoken in previous reports of the controversies arising between the Roman Catholic Church and the Philippine government in reference to the administration of certain charitable trusts. The same church was interested as a majority stockholder in the Spanish-Filipino Bank and a dispute had arisen as to the right of the bank to exercise the power conferred on it by its original charter of issuing bank notes in an amount equal to three times its capital stock. A compromise was finally arranged last June with Archbishop Harty of Manila and was consummated during my visit to the Philippines. I submitted to you a full report of this compromise. It received your approval and was then carried into effect by the Philippine Commission. I append to this my special report to you of that compromise, marked "Appendix A."

#### ROADS.

The construction of roads by the central government has gone on each year, but the roads have not been kept up by the municipal governments charged with the duty as they ought to have been. The Commission has now established a system by which it is hoped ultimately that the whole matter of roads may receive a systematic impetus throughout the islands. Roads can not be kept up in the

Tropics except by what is known as the "*caminero*" system, in which a small piece of each road shall be assigned to the repair and control of a road repairer to be known as the "*caminero*." The truth is that good roads will develop as the people develop, because the people can keep up the roads if they will, and it is not until they have a large sense of political responsibility that they are likely to sacrifice much to maintain them.

#### RAILROADS IN THE PHILIPPINES.

In my last annual report, I set forth in detail the concessions granted for the construction of railroads in Luzon, Panay, Cebu, and Negros, and showed that within five years we might expect that, instead of a single line of railway 120 miles in length which was all that we found when we occupied the islands, we would have a system with a mileage of 1,000 miles. Work has gone on in full compliance with the terms of the concessions of the two companies.

Only one of these companies took advantage of the provision for the guaranty of bonds, and they have built about 40 miles of road and have earned, under the terms of the concession, the guaranty of \$973,000 of bonds, which has already been signed and delivered by the Philippine government. Of course, in this financial panic these companies are likely to have difficulty in securing investors in their securities. The roads as constructed have been well constructed, and are admirably adapted to resist the climatic conditions in the islands. There is no reason in my judgment why these roads when constructed should not pay a reasonable percentage upon the investment. It is of the utmost difficulty to secure the coming of capital to the islands, and it would greatly aid us if the dividends earned by these roads were very large. In the Orient two-thirds of the income of railways comes from passenger earnings, and one-third from freight. Of course, the railroads are very essential to the agricultural interests of the country and will directly affect the amount of exports of agricultural products—so we may count on a steady increase in the freight receipts from the moment of their beginning operation. As I say, however, the chief hope for profit in the railways is in the passenger traffic. In the three Visayas in which the railroads are to be constructed, the density of population is about 160 per square mile, whereas the average population per square mile in the United States in 1900 was but 26. The Island of Cebu has a population of 336 per square mile, or a greater density than Japan, France, Germany, or British India. It is, therefore, reasonable to suppose that the passenger earnings on these railroads will be very large. It was anticipated that the labor problem would be a difficult one to solve in the construction of these roads. This has not proved to be true. The

Philippine labor has shown itself capable of instruction, and by proper treatment of being made constant in its application. Of course, the prices of labor have largely increased, but the companies constructing the roads have found it wise to increase wages, and thereby secure greater efficiency. Even with increased wages the cost of unit of result is less in the Philippines in the construction of railways than it is in the United States. Of course, the drain on the labor supply of sugar plantations and other places where agricultural labor is employed, is great and the effect upon raising sugar and other products is to increase the cost. But I think the lesson from the construction of the railroads is that Philippine labor can be improved by instruction and can be made effective and reasonably economical by proper treatment. The coming into the islands of the capital to construct railways, of course, has had a good effect in the improvement of business conditions, but it is to be noted that in the estimate of importations the railroad material and supplies which are brought in free under the statute are not included in the totals, and therefore are not to be offered as an explanation for the very good showing in respect to the amount of imports to the islands for the last fiscal year.

#### GENERAL BUSINESS CONDITIONS.

Of course, the depression in certain business branches of agriculture, like sugar, tobacco and rice, due to lack of markets for the first two, and to a lack of draft animals in the production of sugar and rice has had a direct effect upon the business of the islands of a depressing character. Gradually, however, business has grown better. In spite of adverse conditions the importations of rice have decreased from \$12,000,000 gold to \$3,500,000 gold, and, while the imports as a whole have increased not to their highest previous figure, they have been maintained within four and a half millions of their highest mark, and, as already said, the exports are higher than ever in the history of the islands, the balance of trade in their favor for the last fiscal year being about five millions, exclusive of gold and silver and government and railway free entries.

I found in the islands a disposition on the part of both American and Philippine business men and of the leaders of all parties in the Philippine Assembly to make a united effort to improve business and general conditions.

#### BUSINESS FUTURE OF PHILIPPINES.

I do not hesitate to prophesy that during the next twenty-five years a development will take place in the agriculture and other business of the Philippine Islands, which will be as remarkable in its benefits to

the United States and the Philippine Islands as was the development of Alaska during the last ten or fifteen years. Hope of this is not what has actuated the government in pursuing the policy that it has pursued in the development of the islands, but this is as inevitable a result as if it had been directly sought, and perhaps the absence of selfishness in the development of the islands is a greater assurance of profitable return than if business exploitation by the United States had been the chief and sole motive. The growth in the production of hemp and other fiber products, in cocoanuts, in rubber and many other tropical crops and in peculiar manufactures of the islands may be looked forward to with certainty.

#### GOLD STANDARD CURRENCY.

One of the great benefits conferred upon the islands by the American Government has been the introduction of the gold standard. This has doubtless prevented the larger profits which were made in the old days by the purchasers of hemp and other agricultural products in the islands, who sold again in European and American markets, because under the system then prevailing, they bought in silver and sold in gold, and by watching the markets they were able to add very much to the legitimate profit of the middlemen by what constituted a system of gambling in exchanges. The same features characterized the banking in the islands. Now, however, with the gold standard the gambling feature in business is very largely eliminated. The coinage is satisfactory to the people, the silver certificates circulate well and are popular, and there seems to be no ground for complaint of the currency.

#### NEED OF CAPITAL—AGRICULTURAL BANK.

One of the crying needs of the Philippines is capital, and this whether it be for the development of railroads, wagon roads, manufactures, or in the promotion of agriculture. The usurious interest which has to be paid by the farmers is so high as to leave very little for his profit and maintenance and ever since we entered the islands the cry for an agricultural bank which would lend money for a reasonable interest, say, 10 per cent, has been urged upon the Commission. Last year Congress authorized the government to guarantee the interest at 4 per cent on a certain amount of capital invested in such a bank, but up to this time no one has embraced the opportunity thus offered to undertake the conduct and operation of a bank although negotiations are pending looking to such a result. It is now proposed that the government shall undertake this instead of a private individual. Experimentation has been attempted on the



friars' lands by the appropriation of \$100,000 for loans to the friar tenants to encourage them to improve agriculture, and the result of this experiment will be awaited with great interest.

The reduction of the amount of silver in the silver peso for the purpose of keeping it within the 50-cent gold value, which is the legal standard, has gone steadily on and will result ultimately in the accumulation in the treasury of a fund of \$3,000,000 gold. It is thought that part of this money might be taken to establish an agricultural bank on a governmental basis. The treasurer of the islands, Mr. Branagan, who has had large experience in banking in the islands, because his office has brought him closely into contact with it and because he has had to examine all the banks, is confident that an agricultural bank of one or two millions of dollars might be established by the government and managed by the treasury department, together with the provincial treasurers in such a way as greatly to aid the cause of agriculture in the islands. One great difficulty in the operation of an agricultural bank is the uncertainty that prevails to-day in the islands in respect to the titles of the lands which are held. The land law provided a method of perfecting titles through what is called the land court founded on the Torrens land system, which was introduced by law some years ago in the islands. The expense of surveying the lands, due to the shortness of supply of surveyors, and the time taken has made the process of settling titles rather slow, but as defects have appeared the Commission has changed them and it is hoped that this system of preparing for the business of an agricultural bank may go on apace.

#### POSTAL SAVINGS BANK.

A postal savings bank has been established and was first more patronized by Americans than Filipinos, but Filipinos are now taking it up and the deposits therein amount to upward of 1,000,000 pesos. There have been practically no banking facilities throughout the islands, except in Manila, Iloilo, and Cebu, and this establishment of postal savings-bank offices in a large proportion of the post-offices throughout the islands offers an opportunity to the people of moderate means to put their money in a secure place and to derive a small revenue therefrom. The insecurity of savings by Filipino farmers and others in the country has certainly reduced the motive for saving which an opportunity to deposit their money will stimulate. The exchange business of the islands has also been facilitated by statutory provisions authorizing the sale of exchange by provincial treasurers on the central treasury at Manila and vice versa.

## POST-OFFICE AND TELEGRAPHS.

The post-office department, considering the conditions that exist and the difficulties of reaching remote parts of the island, has been very well managed and the offices are increasing in encouraging proportion each year.

The following table shows the increase in postal facilities from year to year of our occupation :

For fiscal year ending June 30.	Number post-offices.	Money or- der offices.	Number employees.	Stamp sales.
1900.....	19	.....	113	\$228, 178. 36
1901.....	24	24	130	233, 182. 96
1902.....	90	31	331	238, 418. 40
1903.....	209	33	570	248, 414. 36
1904.....	291	63	579	224, 354. 61
1905.....	414	62	612	222, 701. 36
1906.....	476	60	1, 003	425, 261. 50
1907.....	505	63	1, 091	607, 203. 44

Under a system devised by Mr. Forbes, secretary of commerce and police, mail subsidies were granted to commercial lines on condition that good service at reasonable rates of transportation should be furnished upon safe and commodious steamers. The Government vessels which had previously been purchased in order to promote intercourse between the islands are now used on outlying routes where commercial lines will not take up the traffic, but are used in connection with the commercial lines, and in this way additional routes are being tested and the marine commerce between all the islands is made to increase.

By consent of the Secretary of War, and on the recommendation of the commanding general of the Philippines and the agreement of the civil government, all the telegraph lines in the islands have now been transferred to the post-office department of the civil government of the Philippines. These telegraph lines reach into the remotest provinces and to all the principal islands of the large archipelago. While there were some telegraph lines in the Spanish times, the system has grown to such proportions now as to be almost an entirely new system. It has made the government of the islands much more easy because it brings every province within half a day's communication of Manila for information and instructions from the central authority. It has furnished a most profitable instrument for business communication, and while it entails considerable burden on the civil government, it is well worth for governmental and business purposes all that it costs. I ought to say that the post-office department is rapidly training Filipinos to fill all the positions of telegraph operators, and that this materially reduces the cost of operation and at the same time furnishes an admirable technical school for great numbers of bright Filipino young men. I submit a statement of the mileage of the cables and telegraph lines operated by the Government.

## 1906.

	Miles.	Miles.
Lines transferred to the insular government by the Signal Corps up to June 30:		
Telegraph lines -----	3, 780	
Cable lines -----	328	
Telephone lines -----	2, 137	
Total -----		6, 245
Lines operated by the Signal Corps on June 30:		
Telegraph lines -----	1, 406	
Cable lines -----	1, 452	
Telephone lines -----	338	
Total -----		3, 196
Total mileage of telegraph, cable, and telephone lines in operation June 30 -----		9, 441
Number of telegraph offices -----		161
Number of telephones in operation -----		450

## 1907.

Lines transferred to the insular government by the Signal Corps since July 1, 1907 -----	1, 914. 5
Total mileage of telegraph and cable lines in operation by the insular government to date -----	6, 951

## MINES AND MINING.

There has been a good deal of prospecting in the islands and gold and copper have been found in paying quantities in the mountains of northern Luzon, the provinces of Benguet and Bontoc and Lepanto, as well as in the Camarines in southeastern Luzon, and in Masbate, an island lying directly south of Luzon; but great complaint is made, and properly made, of the limitations upon the mining law which prevent the location by one person of more than one claim on a lode or vein. Mining is such a speculative matter at any rate, and the capital that one puts into it is so generally lost that it would seem that, in a country like the Philippines where development ought to be had, there should be liberal inducements for the investment of capital for such a purpose. Secretary Worcester of the interior department has frequently recommended that this limitation of the law be repealed. The Commission joins in this recommendation and I cordially concur.

While I do not favor large land holdings, I also concur in the recommendation of the secretary of the interior and the Commission that the prohibition upon corporations holding more than 2,500 acres of land be also stricken out. It certainly might well be increased to 10,000 acres if any limitation is to be imposed at all.

## U. S. COASTWISE TRADING LAWS.

It is proposed by some to put in force the coastwise trading laws in respect to the navigation between the United States and the islands. I

think this a very short-sighted policy. To-day the trade between the United States and the islands, export and import, is about 17 per cent of the total. The proportion of the total export trade from the Philippines to the United States is growing and is certain to grow more rapidly in the future, especially if proper legislation is adopted in respect to sugar and tobacco. Now a coastwise trading law will exclude altogether the use of foreign bottoms between the ports of the United States and the ports of the Philippine Islands, and will confine that commerce to United States vessels. There is very grave doubt whether there are enough United States vessels to carry on this trade as it is, and even if there were they could not carry on the trade without a very great increase in freight rates over what they now are. The minute that these rates are advanced, while the rates to other countries remain the same, the trade between the islands and the United States will cease to be. There will be no trade for the vessels of the United States to carry, no one will have been benefited in the United States, and the only person who will reap advantage is the foreign exporter to whom the Philippine business house will naturally turn for exchange of products. The only method possible by which the United States vessels can be given the Philippine trade is by voting a reasonable subsidy for United States vessels engaged in that trade. Any other prohibitive or exclusive provision of law will be merely cutting off the nose to spite the face of the interest which attempts it. I feel certain that when the question of applying the coastwise trading laws to the business between the United States and the islands is fully investigated, even those representing the shipping interests that need and ought to have much encouragement will conclude that the coastwise trading laws applied to the American Philippine trade would merely destroy the trade without benefiting the shipping interests.

In the criticisms upon the Government's Philippine policy to be found in the columns of the newspapers that favor immediate separation, it has been frequently said that the coastwise trading laws of the United States apply as between islands of the Philippines. The truth is that the restrictions upon shipping between ports in the Philippine Islands are what the Legislature of the islands imposes, and Congress has made no provision of limitation in respect to them. The coastwise regulations in force within the Archipelago are as liberal as possible.

#### CITY OF MANILA.

The city of Manila is the social, political, and business center of the islands. It is the only large city in the islands. Its population is about 250,000, while there is no other city that exceeds 40,000 in

population. By what now has been proven to be a mistake, the Commission purchased a building which was known and used as the Oriente Hotel. It was a hotel not very well conducted, but it was the only important hotel in the city of sufficient size and dignity to induce the coming of tourists. It was hoped that the purchase of this building, which was not particularly adapted as a hotel, might lead to the construction and maintenance of a better hotel. Such has not been the result, and although there are hotels in the city of Manila, its reputation is that of being unable to furnish to the traveling public a comfortable hostelry for a short stay. This has driven away many travelers of our own country and other countries from a city that in historical interest, in beauty, and in comfort of life will compare favorably with any.

Mr. Burnham, the well-known landscape architect of Chicago, some years ago, without compensation, visited the Philippines and mapped out a plan for the improvement of the city, and laid out a plan of construction for Baguio in Benguet as the summer capital. To both of these plans, all improvements which have been attempted in the city have conformed, and if the present efficient city government continues, there is every reason to believe that Manila will become a most attractive city. A contract has been made for the leasing of ground immediately upon the Luneta and facing the bay to a firm of capitalists for the construction of a hotel to cost 500,000 pesos. It is doubtful, however, whether this capital can be raised at the present time, and if it falls through it is proposed, and I think with wisdom proposed, that the government shall erect a hotel as a public investment for the development of the city and the islands, and lease it to the best bidder.

There is no city in the world better governed than Manila. The streets are well cleaned, are well policed, there is a most excellent fire department, the parks are being enlarged and improved, the street car system is as good as any anywhere, and with the improvements in the water supply the sewerage system and esteros or canals, which are now under foot and part of which are quite near accomplished, the face which the Filipinos turn toward the world in the city of Manila will be a most pleasing one.

#### POLITICAL FUTURE OF THE ISLANDS.

There are in the Philippines many who wish that the government shall declare a definite policy in respect to the islands so that they may know what that policy is. I do not see how any more definite policy can be declared than was declared by President McKinley in his instructions to Secretary Root for the guidance of the Philippine

Commission, which was incorporated into law by the organic act of the Philippine government, adopted July 1, 1902. That policy is declared to be the extension of self-government to the Philippine Islands by gradual steps from time to time as the people of the islands shall show themselves fit to receive the additional responsibility, and that policy has been consistently adhered to in the last seven years now succeeding the establishment of civil government.

Having taken some part and sharing in the responsibility for that government, of course my views of the results are likely to be colored by my interest in having the policy regarded as successful, but eliminating as far as is possible the personal bias, I believe it to be true that the conditions in the islands to-day vindicate and justify that policy. It necessarily involves in its ultimate conclusion as the steps toward self-government become greater and greater the ultimate independence of the islands, although of course if both the United States and the islands were to conclude after complete self-government were possible that it would be mutually beneficial to continue a governmental relation between them like that between England and Australia, there would be nothing inconsistent with the present policy in such a result.

Any attempt to fix the time in which complete self-government may be conferred upon the Filipinos in their own interest, is I think most unwise. The key of the whole policy outlined by President McKinley and adopted by Congress was that of the education of the masses of the people and the leading them out of the dense ignorance in which they are now, with a view to enabling them intelligently to exercise the force of public opinion without which a popular self-government is impossible.

It seems to me reasonable to say that such a condition can not be reached until at least one generation shall have been subjected to the process of primary and industrial education, and that when it is considered that the people are divided into groups speaking from ten to fifteen different dialects, and that they must acquire a common medium of communication, and that one of the civilized languages, it is not unreasonable to extend the necessary period beyond a generation. By that time English will be the language of the islands and we can be reasonably certain that a great majority of those living there will not only speak and read and write English, but will be affected by the knowledge of free institutions, and will be able to understand their rights as members of the community and to seek to enforce them against the pernicious system of caciquism and local bossism, which I have attempted in this report to describe.

But it is said that a great majority of the people desire immediate independence. I am not prepared to say that if the real wish of the majority of all the people, men, women, and children; educated and

uneducated, were to be obtained, there would not be a very large majority in favor of immediate independence. It would not, however, be an intelligent judgment based on a knowledge of what independence means, of what its responsibilities are or of what popular government in its essence is. But the mere fact that a majority of all the people are in favor of immediate independence is not a reason why that should be granted, if we assume at all the correctness of the statement, which impartial observers can not but fail to acquiesce in, to wit: that the Filipinos are not now fit for self-government.

The policy of the United States is not to establish an oligarchy, but a popular self-government in the Philippines. The electorate to which it has been thought wise to extend partial self-government embraces only about 15 or 20 per cent of the adult male population, because it has been generally conceded by Filipinos and Americans alike that those not included within the electorate are wholly unable to exercise political responsibility. Now, those persons who demanded and were given a hearing before the delegation of Congressmen and Senators that visited the islands in 1905, to urge immediate independence contended that the islands are fit for self-government because there are from 7 to 10 per cent of intelligent people who are constituted by nature a ruling class, while there are 90 per cent that are a servile and obedient class, and that the presence of the two classes together argues a well balanced government. Such a proposition thus avowed reveals what is known otherwise to be the fact that many of those most emphatic and urgent in seeking independence in the islands have no thought of a popular government at all. They are in favor of a close government in which they, the leaders of a particular class, shall exercise control of the rest of the people. Their views are thus wholly at variance with the policy of the United States in the islands.

The presence of the Americans in the islands is essential to the due development of the lower classes and the preservation of their rights. If the American government can only remain in the islands long enough to educate the entire people, to give them a language which enables them to come into contact with modern civilization, and to extend to them from time to time additional political rights so that by the exercise of them they shall learn the use and responsibilities necessary to their proper exercise, independence can be granted with entire safety to the people. I have an abiding conviction that the Filipino people are capable of being taught self-government in the process of their development, that in carrying out this policy they will be improved physically and mentally, and that, as they acquire more rights, their power to exercise moral restraints upon themselves will be strengthened and improved. Meantime they will be able to see, and the American public will come to see the enormous material

benefit to both arising from the maintenance of some sort of a bond between the two countries which shall preserve their mutually beneficial business relations.

No one can have studied the East without having been made aware that in the development of China, Japan and all Asia, are to be presented the most important political questions for the next century, and that in the pursuit of trade between the Occident and the Orient the having such an outpost as the Philippines, making the United States an Asiatic power for the time, will be of immense benefit to its merchants and its trade. While I have always refrained from making this the chief reason for the retention of the Philippines, because the real reason lies in the obligation of the United States to make this people fit for self-government and then to turn the government over to them, I don't think it improper, in order to secure support for the policy, to state such additional reason. The severe criticism to which the policy of the Government in the Philippines has been subjected by English Colonial statesmen and students, should not hinder our pursuit of it in the slightest. It is of course opposed to the policy usually pursued in the English government in dealing with native races, because in common with other colonial powers, most of England's colonial statesmen have assumed that the safest course was to keep the native peoples ignorant and quiet, and that any education which might furnish a motive for agitation was an interference with the true and proper course of government. Our policy is an experiment, it is true, and it assumes the risk of agitation and sedition which may arise from the overeducation of ambitious politicians or misdirected patriots, in order that the whole body of the people may acquire sufficient intelligence ultimately to exercise governmental control themselves.

Thus far the policy of the Philippines has worked. It has been attacked on the ground that we have gone too fast, that we have given the natives too much power. The meeting of the assembly and the conservative tone of that body thus far disclosed, makes for our view rather than that of our opponents, but had the result been entirely different with the assembly, and had there been a violent outbreak at first in its deliberations and attempts at obstruction, I should not have been in the least discouraged, because ultimately I should have had confidence that the assembly would learn how foolish such exhibitions were and how little good they accomplished for the members of the assembly or the people whom they represented. The fact that this natural tendency was restrained is an indication of the general conservatism of the Filipino people.

Though bearing the name of immediate independistas, the members of the controlling party of the assembly are far from being in favor of a policy which those words strictly construed would mean.



Moreover, the recent election held, since the Assembly was organized, in which fifteen progresista and fifteen nationalist governors were elected, is an indication that the nationalist feeling is by no means so overwhelming as was at first reported when the returns from the election of the assembly were published in the press.

The fact that Filipinos are given an opportunity now to take part in the forming of the governmental policies in the islands, will I hope satisfy many of them that the United States is in earnest in attempting to educate them to self-government, will so occupy their ambitions and minds as to make the contention for immediate independence more of an ideal than of a real issue, will make more permanent and lasting the present satisfactory conditions as to peace and tranquillity in the islands, and will turn their attention toward the development of the prosperity of the islands by improvement of its material conditions and the uplifting of the people by their education, sanitation and general instruction in their political, social and material responsibilities.

There has been in the United States in the last year a recurring disposition on the part of many of the press and many public men to speak of the Philippine policy as if foredoomed to failure, and the condition of the islands as a most deplorable one. No one who knew the islands in 1900, and who has visited them during the present year and especially during the meeting of the assembly can honestly and fairly share such views. To one actually responsible in any degree for the present conditions by reason of taking part in the government of those islands, the changes made and the progress made under the circumstances are most gratifying.

#### **COST OF THE PRESENT GOVERNMENT OF THE ISLANDS.**

The most astounding and unfair statements have appeared in the press from time to time and have been uttered by men of political prominence who should know better, in respect to the cost to the United States of the Philippine Islands. The question of the cost of the islands to the United States as affecting its future policy can not of course include the cost of a war into which the United States was forced against its will, and which whether it ought to have been carried on or not, was carried on and was finished more than five years ago. The only question of cost that is relevant to the present discussion is the cost to the United States of the maintenance of the present Philippine government, including in that the cost of the maintenance of that part of the army of the United States which is in the Philippine Islands. Nor is it fair to include the entire cost of the army of the United States in the Philippine Islands for the reason that even if we did not have the Philippines, we should certainly

retain the present size of our standing army which hardly exceeds 60,000 effective men, a very small army for 80,000,000 people. Moreover, it is worthy of note that the greatest increase in the Army of recent years has been in that branch of the service—to wit, the coast artillery—which has not been used in the Philippines for some years.

The only additional cost therefore that the maintenance of the army can be said to entail upon the United States is the additional cost of maintaining 12,000 soldiers in the islands over what it would be to maintain the same number of soldiers in the United States. This has been figured out and roughly stated amounts to about \$250 a man or \$3,000,000, together with the maintenance of 4,000 Philippine Scouts at a cost of \$500 a man, or in all \$2,000,000, which makes a total annual expenditure of \$5,000,000. The United States at present contributes something, perhaps \$200,000, to the expense of the coast survey of the islands. With this exception, there is not one cent expended from the treasury of the United States for the maintenance of the government in the islands. The additional cost of the 12,000 men in the islands, figured above at \$250 a man, includes the cost of transportation and the additional cost of food supplies and other matters.

There is an item of cost, which perhaps may be charged to the Philippine Islands. I refer to the expense of fortifying the bay of Manila, the port of Iloilo and the port of Cebu, so that in holding the islands the United States shall not be subject to sudden and capricious attack by any ambitious power. This may reach a total of ten millions. But it is hardly fair to charge this to the Philippine policy; for almost everyone concedes the necessity of maintaining and fortifying coal- ing stations in the Orient whether we have the Philippines or not.

The question is, therefore, whether, in order to avoid the expenditure of \$5,000,000 a year, the United States should pursue the humiliating policy of scuttle, should run away from an obligation which it has assumed to make the Philippines a permanently self-governing community, and should miss an opportunity at the same time of building up a profitable trade and securing a position in the Orient that can not but be of the utmost advantage in obtaining and maintaining its proper proportion of Asiatic and Pacific trade.

From time to time there has been quite severe criticism of the present Philippine government on the ground that it is such an expensive government as to be burdensome to the people. The facts are that the taxes which fall upon the common people are much less than they ever were under the Spanish régime. The taxes which fall upon the wealthy are considerably more, because as a matter of fact the Spanish system of taxation was largely devised for the purpose of avoiding taxation of the wealth of the islands. I have not at hand and am not able to insert in this report the figures and statistics

which demonstrate this fact. They are now being prepared in Manila, and I hope at some future date to submit them for your consideration. Not only is the comparison to be instituted with the conditions existing under the Spanish régime, but also with the taxation of other dependencies. The data with respect to these are difficult to get and frequently liable greatly to mislead when the conditions of each particular colony are not fully understood and stated. But my information is derived from Governor Smith and Mr. Forbes that the cost per capita of the government of the Philippines will compare most favorably with that of colonial governments presenting substantially similar conditions.

The reports from the governor-general, the heads of departments and of bureaus have not reached Washington. I was able before I left the islands to read informal drafts of some of them and much of the information as to the last year's operations I have derived from them. I shall submit the reports immediately upon their arrival.

#### RECOMMENDATIONS.

I therefore recommend:

First. That legislation be adopted by Congress admitting the products of the Philippine Islands to the markets of the United States, with such reasonable limitations as may remove fear of interference with the tobacco and sugar interests in the United States;

Second. That the present restrictions be removed as to the acquisition of mining claims and the holding of lands by corporations in the Philippines;

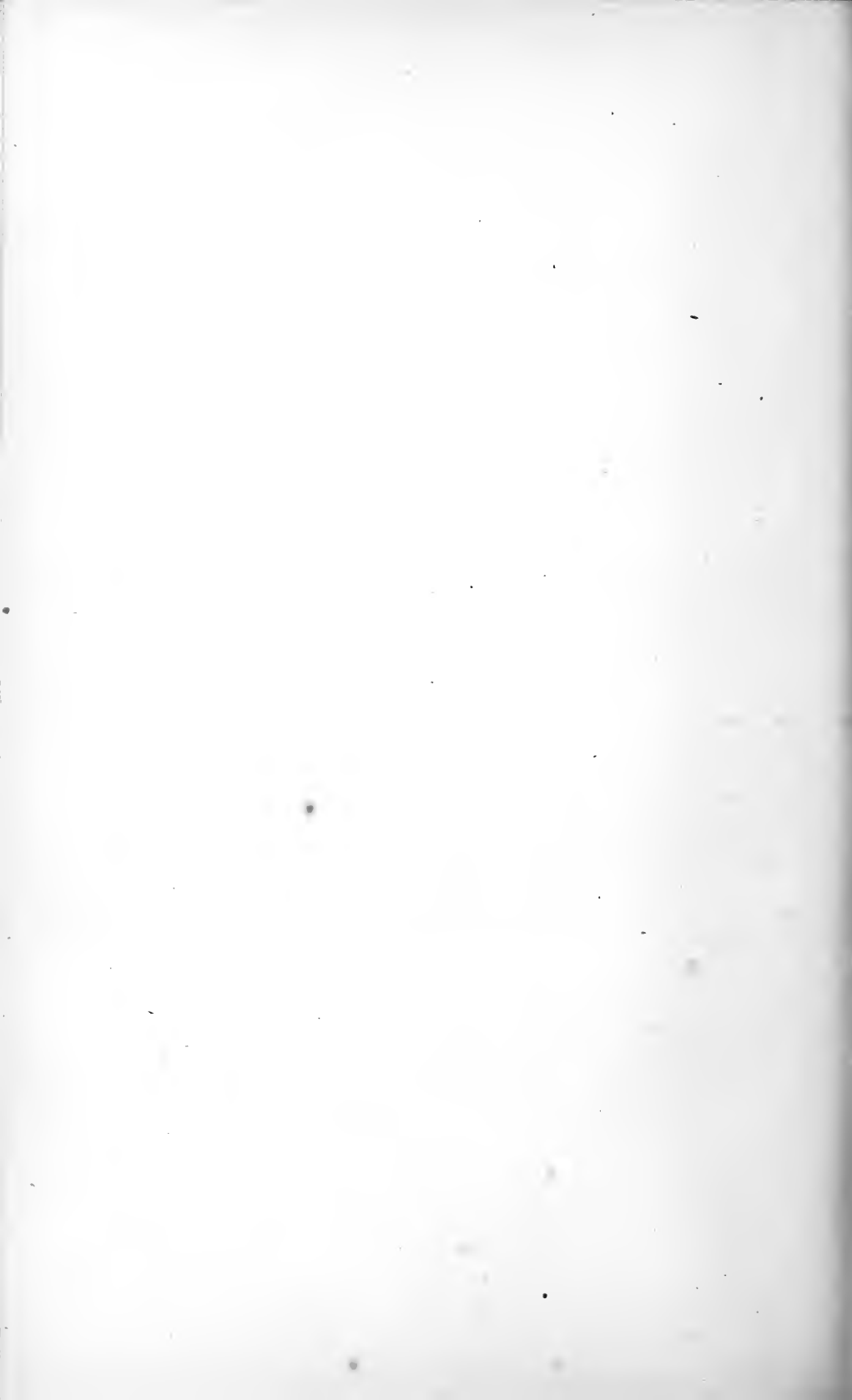
Third. That further legislation be passed authorizing the Philippine government, if it chooses, to open and conduct an agricultural bank, with a capital not exceeding \$2,000,000; and

Fourth. That the coastwise laws of the United States be made permanently inapplicable to the trade between the ports of the islands and the ports of the United States.

Sincerely, yours,

WM. H. TAFT.

THE PRESIDENT.



APPENDIX "A"

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NEGOTIATIONS

FOR THE

SETTLEMENT OF TITLE TO CERTAIN LANDS  
IN THE PHILIPPINE ISLANDS

CLAIMED BY THE PHILIPPINE GOVERNMENT AND BY  
THE ROMAN CATHOLIC CHURCH

AND IN THE MATTER OF

THE CHARTER OF THE SPANISH-FILIPINO BANK

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## LETTER OF SECRETARY OF WAR TO THE PRESIDENT.

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WAR DEPARTMENT,  
Washington, July 2, 1907.

MY DEAR MR. PRESIDENT: I beg to submit herewith a report upon negotiations which have reached a tentative conclusion between Archbishop Harty, of Manila, and myself, with reference to the settlement of certain controversies between the Philippine government on the one hand and the Catholic Church on the other. With the Catholic Church may be included the Banco Español-Filipino, of which I am informed that the Archbishop of Manila, in his trust capacity for the Roman Catholic Church, is the chief stockholder. The negotiations concern the administration of trust properties of an educational and charitable character, and also the charter of the Filipino-Spanish Bank, especially in respect of a franchise which it was given by the Spanish Government for the issuing of circulating notes.

At the time that I was sent to Rome, by your direction, Secretary Root, in his instructions to me of May 9, 1902, said:

The rights and obligations remaining under the various specific trusts for education and charity which are now in doubt and controversy ought to be settled by agreement if possible, rather than by the slow and frequently disastrous processes of litigation, so that the beneficent purposes of these foundations may not fail.

And in my letter of July 3, 1902, in response to a communication of Cardinal Rampolla, I said:

It is hoped that when the apostolic delegate competent to act for the Holy See visits the islands he may take up with the Philippine government the educational and charitable trusts now in dispute, and that they may agree by compromise on those which should be conducted under the direction of the civil government and those which should be conducted under the direction of the church; but should it be impossible to agree upon such a compromise, then it is proposed to submit all the disputed questions of this character to the tribunal of arbitration constituted under the first head, which shall hear the causes as in a court and make the award as above provided, and that among the questions to be submitted to such tribunal shall be the one arising upon the San Jose foundation now pending in the supreme court of the islands.

I am very glad to say that I believe a satisfactory compromise has been reached.

After the cession of sovereignty to the United States under the Treaty of Paris took effect the question arose as to whether the government or the church should act as administrator and trustee of the following trusts:

*The College of San Jose.*—This is now under the control of the Dominican order and is made a part of the University of St. Thomas. Its foundation includes certain buildings in Manila and an agricultural estate, all of which are valued at about \$500,000.

*The Hospicio San Jose.*—This is now used as a lunatic asylum and also as a pauper school. It is in charge of a board of directors under the Archbishop of Manila. Its foundation is estimated to be worth about \$400,000.

*The Hospital of San Juan de Dios.*—This is administered by a directorate under the supervision of the Archbishop of Manila, and the value of its foundation, including its buildings and a large hacienda, is estimated at \$1,000,000.

*The Hospital of Cavite.*—This is a small hospital in possession of the archbishop of Manila and worth not more than \$50,000.

*The Hospital of San Lazaro.*—This was conducted, until the United States forces took charge of Manila, by the Franciscan monks as a leper hospital. The Franciscan monks surrendered it to the administration of the military government, and it has ever since been in charge of the military government, or of the Philippine civil government, which succeeded. Its property is chiefly, in addition to a large hospital building, urban or suburban property, which has become quite valuable and is estimated now as worth from \$1,250,000 to \$2,000,000.

First. In respect to the College of San Jose, the controversy early attracted attention under the military government because the Filipino College of Physicians, claiming that this was a civil trust, petitioned General Otis, the military governor, to prevent the continuance of this college and its foundation as a medical school and part of the Dominican University of St. Thomas. General Otis issued an order forbidding the use of the college buildings and property for this purpose, but did not take the property from the custody of the Dominicans or of the Catholic Church. The matter was agitated before the Commission as soon as the Commission reached the islands, and we finally, after hearing arguments on both sides, made special provision for a decision of the controversy by the Supreme Court. We did not intimate our view as to the merits of the controversy, but did hold that General Otis had no right to issue the order which he did issue, and we accordingly set it aside. As a matter of fact, after studying the case, two of the Commissioners—that is, General Wright and myself—reached the conclusion that the civil government had no right to take possession of the College of San Jose, or to administer it, while our three colleagues—Judge Ide and Commissioners Moses and Worcester—differed with us and thought suit should be brought by the civil government to maintain its right as trustee, and, as already said, a special act was passed for an original suit in the supreme court. The case has been argued and the decision has been prepared, but has not been handed down, because, at the request of the parties, it was hoped that it might be included in the general settlement.

In respect to the Hospicio San Jose and the San Juan de Dios Hospital, in 1902 the attorney-general of the Philippine Islands, in opinions which I append, advised the civil governor that the right to administer these trusts was a civil one and was in the civil government. Such examination of these cases as I have been able to give indicates that these trusts were originally religious and pious trusts and pertained to the church, but the position of the attorney-general is that the King of Spain by subsequent decrees freed them of their religious character and took them over to his civil administration.



The claim of the church in all these cases is that under the Government of Spain all charitable and religious foundations were presumptively pious works, *obras pias*, and under the control of the church; that there were two kinds—one under the immediate control of the ordinary or the bishop of the diocese and the other under the control of the King as the universal patron of religious trusts. It was claimed that under two bulls—one of Alexander VI and the other of Julius II—the Popes transferred much of their authority to be exercised by the King of Spain, and especially their power as patrons of religious trusts. Hence, it is contended by the church authorities that all these trusts which had originally a religious foundation pertained to the Roman Catholic Church down to the ending of the Spanish rule in the Philippine Islands, and that even where by royal decree a trust administered by a religious order was taken over by the King because of abuses in its management the religious character of the trust did not cease, but the action of the King, or of the governor-general acting for him, was that as a vice-royal patron really in the name and the authority of the Pope. At the time the Americans entered Manila these two trusts were being managed by directorates containing both ecclesiastics and civilians under appointment of the governor-general. On his retirement he invited, so it is claimed for the church, the archbishop to assume control as religious patron representing the Pope on the withdrawal of the representative of the King of Spain, and the archbishop took control as such.

The question is a most intricate and complicated one, and one upon which, although I have given it some study, I am by no means clear as to the result which would be reached at the end of a long litigation. In opposition to the opinions of the attorney-general upon the question of Hospicio San Jose and the San Juan de Dios Hospital, I append the petition of the Archbishop of Manila to you, which sets out the views of the church authorities upon the right to administer these trusts.

In respect to the Hospital of Cavite, I don't think the civil authorities insist upon their claim of administration.

The trust of the Hospital of San Lazaro was being administered by the monks of St. Francis when the military government of the United States was established. The monks were unable to carry it on and turned it over to the United States military governor. This trust was undoubtedly of religious origin, though whether its subsequent mutations gave it a civil character is a doubtful question. Our claim to administer is not thought to be so strong in this case as in those of Hospicio San Jose and San Juan de Dios. From the standpoint of public usefulness it is much better that the government should control this trust of San Lazaro than any of the others.

The members of the Commission were long ago convinced of the wisdom of ending the litigation, which was likely to be continuous and exasperating, and agreed that if we could secure the administration of the San Lazaro property as a leper hospital and for other diseases we would be entirely willing to allow the other trusts to be administered without question by the Roman Catholic Church. The reason why we were anxious to secure the San Lazaro property was, first, because it was admittedly the most valuable trust of all, and is nearly equal in value to the rest which are in dispute. A majority

of its property is city property, the value of which is rapidly increasing, and the rents from which can be made quite profitable. It was very badly mismanaged when in the hands of the Franciscans, who allowed themselves to be robbed by middlemen, who collected all the profits and paid nothing to them. But under government control it has been made a very wealthy charity. The foundations of the other charities are chiefly agricultural property, and while that is often valuable it is not so certain in its returns, and on the whole not so desirable, whatever its estimated value, as the city property like that of San Lazaro. There is an additional reason why we would desire to retain control of San Lazaro. It is admirably adapted to the construction of hospitals for epidemic diseases and for all the public buildings connected with the sanitary work of the government and the city, and something more than \$100,000 in gold has been expended by the Philippine government in improvements on the San Lazaro estate and near the old San Lazaro Hospital. It would be exceedingly inconvenient for the government, therefore, to give up the administration and control of that charity. Accordingly, in the discussion with Monsignor Agius, the apostolic delegate, I renewed a proposition, as Secretary of War, in 1905, which the Commission had made before my visit to the islands in that year, that if the church would consent to our holding and administering the San Lazaro estate, which was in our possession, we would compromise by allowing the church to retain all the other trusts, including the College of San Jose, which was in litigation, and would consent to a decree directing that that be turned over to the control of the Archbishop of Manila for administration, in accordance with the original purposes of the founder. Monsignor Agius was not willing, because of the great value of the San Lazaro property, to make this compromise. When it was proposed by the government to bring suit to recover the San Juan de Dios Hospital property, Archbishop Harty protested by cable to me, and thereupon I telegraphed him a renewal of the offer of compromise which I had made to Monsignor Agius. He did not then accept it. He subsequently visited Rome and obtained permission to make a compromise with respect to these trusts, and then came to America for a conference with me. His proposition of compromise is contained in the petition which I have filed herewith. After much discussion, in which he brought into requisition the services on his behalf of Mr. Festus J. Wade, a banker of wide experience of St. Louis, we agreed upon a tentative settlement, which is appended herewith.

The 50 hectares which is reserved for the archbishop and the church out of the San Lazaro trust property in this compromise is valued, as we learned by cable, at about 5,000 pesos a hectare. It lies north of the valuable part of the estate and embraces swamps and unimproved land. All of it is not worth to exceed 250,000 pesos, or \$125,000. So that the part which we receive in the compromise amounts certainly to \$1,200,000, and probably to \$1,500,000, and we save the money which we have already invested in San Lazaro and secure a most useful public sanitary plant. This tentative settlement was made subject to the approval of the Commission, and the Commission have since signified their acquiescence in the arrangement.

I need not emphasize to you, I am sure, the importance of the settlement of this controversy, even though the church had some advantage in the result. I do not think it has. My own judgment as a lawyer is that it is very doubtful whether we could have established our claim upon appeal to the Supreme Court to the administration of any of these trusts. They are so commingled in their origin with religious charities that I am quite confident that an American court would feel that a purely civil government was not competent to administer them according to the intent of their founders, and I am under the impression that a court would regard that as the chief guide to them in deciding what trustee should be entitled to administer the charity. It may be said that we have no right to divide up the San Lazaro charity—that it ought to go to one or the other party as a whole. I think this objection, however, can be met by the suggestion that we have already put a very large amount of money out of the treasury of the Philippines into that part of the San Lazaro estate which we retain, and that therefore we may properly part with the outlying remainder of the estate of comparatively little value for purposes of peace and to secure the administration of this particular charity of so much benefit to the general public.

There was united with the settlement, however, the settlement of a controversy with respect to the Banco Español-Filipino. I shall not state the question in detail, but may say in a summary way that the bank was established under general Spanish law and then was reorganized under special royal decree and was given the right to have a capital of 3,000,000 pesos, the equivalent of \$1,500,000, with an exclusive privilege of issuing notes to the amount of 9,000,000 pesos, to constitute the circulating currency in the islands. When the United States took possession of the Islands, the bank had a capital only of 1,500,000 pesos, with a surplus of 900,000 pesos, and had issued notes to about the amount of 1,500,000 pesos. The Philippine Commission was not willing to permit the exercise by the bank of the franchise to issue notes beyond its capital stock, and therefore imposed a prohibitory tax on the issue of notes beyond its capital stock. This was seriously objected to by the bank, and I may say by the church authorities, because the archbishop of Manila, as I am informed, owns or controls more than one-half of the stock of the bank. It has been vigorously contended, in printed briefs and otherwise, that this charter of the Spanish Kingdom, by virtue of the guaranties of the Treaty of Paris, passed unimpaired under American sovereignty, and that therefore the American Government, and the Philippine government as its agent, are bound to recognize the validity of the treaty and to allow the issue of notes to the extent of three times the capital stock of the bank. I have never been willing to concede that such a franchise as that of issuing currency could pass from one sovereignty to another without express provision. It seems to me that it is of such a sovereign character as to lapse unless especially saved in the deed or treaty of cession so as to remain in force under the new sovereignty. However this may be, the authorities of the bank have threatened litigation by resistance to the tax and otherwise to test the question of their right to enjoy this note-issuing franchise to its full extent. I must repeat that this was an exclusive franchise which forbade the issue of notes by any

other bank and was so exclusive, according to the views of the bank authorities, as to make the issue of silver certificates by the Philippine government a violation of this exclusive franchise. Those of us who have been responsible for the Philippine government have not had the slightest objection to the issuing of notes under a proper bank charter which should give proper security for the redemption of the notes, and, therefore, when the matter was agitated in connection with the settlement of the trust controversies I expressed an entire willingness to consent to an amendment of the charter if that amendment should, in the judgment of the Commission and our financial experts, secure the payment of the notes to be issued. The compromise which we have agreed upon in this respect may be shortly stated as follows:

The amendment takes away any exclusive right on the part of the bank to issue circulating notes, but provides that no other bank shall exercise this privilege unless it has a capital of \$1,000,000. It provides that the present bank may increase its capital to 10,000,000 pesos, provided the increase consists in the payment of money into capital in cash to the par value of the stock. It then permits the issuing of notes equal in value to the paid-up capital stock, not exceeding, however, 9,000,000 pesos, the amount which might have been issued under the old charter on a capital of only 3,000,000 pesos.

Under the Spanish charter the Government was allowed to select certain officers and to secure loans without interest, features which gave the bank the character of a government institution. All these features are renounced by the Philippine government, and only the right of rigid examination and investigation at all times by the treasurer and the governor-general, exactly similar to those methods provided by the national banking act, are reserved. The rules for the investment of the assets of the bank are rigidly drawn and amended with a view to the maintenance of all the capital in the form of bankable securities. The right to invest in real estate securities is limited to 20 per centum of the capital. The land and buildings taken as securities must be entirely free from encumbrance and worth double the value of the loan. A reserve of 25 per centum of cash to redeem the circulating notes is always required to be maintained. A tax of one-half per cent on the circulating notes is imposed when those notes are issued against capital. There is a special provision by which 600,000 pesos of circulating notes may be issued upon the deposit of acceptable securities with the treasurer of the islands to that amount. These 600,000 pesos are included within the allowed total of 9,000,000 pesos, but when notes are issued under this provision they are to pay 1 per cent tax.

The statutes of the bank we have carefully gone over, and into the consultation I have called not only General Edwards and Major McIntyre, of the Insular Bureau, but also the treasurer of the islands, Mr. Frank Branagan, who is familiar with banking in the islands, Mr. Conant, the financial expert, and Mr. Kemmerer, a financial expert who was engaged in the islands for over two years and who was bank examiner there, and Professor Jenks, of Cornell, who is very familiar with oriental banking, and they all approve the amendment to the charter and the arrangement under which now this issue of circulating notes is to take place. It is an instance of asset circulation,

and it is an increase of the security over notes, which might have been issued to the extent of 9,000,000 pesos, from 3,000,000 pesos capital, to 9,000,000 pesos capital. The amendment to the charter and the recognition of it as thus amended as valid is exceedingly popular among business circles in Manila, because it is thought it will offer an inducement for the coming in of banking capital which is so badly needed there.

For these reasons I am entirely willing to recommend the amendment to the bank charter as in the interest of the public in Manila, as well as the basis for bringing about the compromise with respect to the trusts, which I have already described and which I am sure will greatly contribute to the peace and prosperity of the islands. I respectfully ask your authority to direct that the tentative agreement already made by me, together with the amendments of the bank statutes, which I have approved, be carried into effect by appropriate legislation and decrees in court.

Very respectfully,

WM. H. TAFT,  
*Secretary of War.*

P. S.—I am authorized to say that Ex-Governor-General Ide, who is familiar with the general features of this compromise, fully approves it. The general terms of the compromise have been submitted to the Commission, who have also approved it.

I do not mention in the list of trusts particularly referred to the Colegio Santa Isabela and the Santa Potenciana, because one of these—Santa Isabela—is confessedly clearly a church trust, and Santa Potenciana is confessedly a trust to be administered by the civil government.

Second P. S.—I ought to add, with respect to the amended charter which it is proposed to grant to the Banco Español-Filipino, that an exactly similar Spanish charter was confirmed in toto to the Bank of Porto Rico by an act of Congress, and in that charter the Porto Rican bank was given the authority to issue notes to three times the value of its capital stock, and in the act of confirmation there was no attempt to give any additional security for the redemption of these notes. This would seem to be a precedent abundantly justifying what we are doing in this amended charter.

THE WHITE HOUSE,  
*July 4, 1907.*

Approved. The appropriate action to make the approval effective will forthwith be taken.

THEODORE ROOSEVELT.

## TENTATIVE AGREEMENT BETWEEN SECRETARY OF WAR AND ARCHBISHOP HARTY.

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This memorandum of agreement, entered into by Archbishop Harty, Archbishop of Manila, representing the Roman Catholic Church in the Philippine Islands, and the Secretary of War, representing the government of the Philippine Islands, is intended to form the basis of a compromise of a number of controversies arising between the Roman Catholic Church and the government of the Philippine Islands, and to end all such controversies.

The controversies arising are as follows:

First. The right of the Roman Catholic Church, on the one hand, and the Philippine government, on the other, to administer certain charitable trusts, and to take possession of, and assume control of, the following estates, to wit:

• The buildings, estates, and hospital plant of the Hospicio San Jose.

Second. The buildings, estates, and hospital plant of San Juan de Dios, including all other estates or investments of said hospital of San Juan de Dios.

Third. The Colegio de San Jose, now in litigation in the supreme court of the Philippine Islands, including buildings, hospital plant, or other property of the Colegio de San Jose, and any hospicios, estates, or investments held by it.

Fourth. The hospital of San Jose in Cavite, including the land and buildings thereof in Cavite.

Fifth. The estate, hospital plant, buildings, and investments, or other property of the Colegio Santa Isabela.

Sixth. The buildings, hospital plant, estates, and all other property and investments of the hospital and foundation of San Lazaro.

Seventh. The buildings, plant, foundation, and estates known as the Santa Potenciana.

Also the controversy between the Banco Español-Filipino, in which the archbishop of the diocese of Manila, representing the Roman Catholic Church, represents and controls a majority of the capital stock, presents the issue whether the rights, privileges, and immunities conferred upon the Banco Español-Filipino continue unimpaired under the American sovereignty brought about by the Treaty of Paris, the Philippine government contending that the right to put in circulation notes of issue ceased to be and was dependent thereafter upon any grant of the American or Philippine government. The bank on its part claimed that under the terms of the Treaty of Paris the right to issue such notes continued unimpaired, and that the charter as granted by the Spanish Government continued without impairment under American sovereignty.

Now, therefore, for the purpose of ending all these controversies, the following informal agreement is entered into, to be subject to the approval of the Philippine Commission, and to be carried into effect by the entry of consent decrees, in the proper courts, in such form as to confirm the titles in the persons by this agreement to take the respective properties, and by such legislation of the Philippine Commission as may be necessary to further confirm and put into execution said agreement, and also subject to the approval of the Secretary of War, and of Archbishop Harty, through his agent, Festus J. Wade, of the statutes of the bank as they shall be revised, such revision to contain a restriction on the amount of money to be loaned by the bank on real estate security.

In consideration of the foregoing, and in the manner prescribed herein, the archbishop of the diocese of Manila, for the Roman Catholic Church in the Philippine Islands, is to take possession and hold in absolute title, free from all claims or demands of the Philippine government, the land and property, real, personal, and mixed, set forth and described under sections one, two, three, four, and five hereof, namely: Hospicio San Jose; San Juan de Dios; Colegio de San Jose; Hospital of San Jose in Cavite, and the Colegio Santa Isabela.

It being understood, however, that the College of San Jose is to be surrendered and given into the possession and ownership of the archbishop of Manila for the specific purpose of its foundation.

And to the same extent and in the same manner the archbishop of Manila, for the Roman Catholic Church, relinquishes all claims and demands of any nature and to any extent upon the buildings, plant, foundation, and estates known as Santa Potenciana, and also upon the buildings, hospital, plant, church, estates, and all other property and investments, real, personal, or mixed, of the hospital and foundation of San Lazaro, except as follows:

First. The Archbishop of Manila is to take, hold, and own all of block numbered 156, as platted and set forth upon the map or plat hereto attached and made a part hereof for the purpose of this agreement, said conveyance being in consideration of the relinquishment by the archbishop of Manila of any claim or demand to the church and land upon which it is situated, and which is attached to and a part of the San Lazaro Hospital.

Second. All of the blocks platted and set forth upon the map hereto attached, beginning with block numbered 159 and up to and including block numbered 210, shall be divided as follows:

The Archbishop of Manila, his agent or representative, shall select fifty hectares belonging to the San Lazaro estate north of the second street running parallel to the northern boundary of the present hospital ground, provided there be fifty hectares in this property. The selection shall be made by blocks, platted and numbered from 159 to 210, inclusive, upon the accompanying map or plat. The area of this described property shall be determined in hectares, and if it exceeds fifty hectares the selection shall be as follows:

First. The archbishop or his representative will select a block and then the representative of the Philippine government will select a block, and alternate selections will follow until the archbishop shall

have received fifty hectares of land. If from the survey it is shown that these alternate selections by the archbishop and by the Philippine government will not give to the archbishop the required fifty hectares of land, the Philippine government shall withdraw from further selection as soon as its proportionate amount has been received, and give the balance of the property to the archbishop, it being understood that both the parties hereto agree to the dedication to public use of the streets and alleys shown on said plat or map.

In relation to the Banco Español-Filipino, the following is agreed by and between the parties hereto:

I. That the corporate existence of the Banco Español-Filipino shall be extended twenty-five years from January 1st, 1903. This period may be extended at the request of the majority of the stockholders of the bank, provided such request be made at least one year before the expiration of the twenty-five years mentioned.

II. That the bank is authorized to change its name, at its option, to be known as the Bank of the Philippine Islands, or the Philippine Bank.

III. That the government of the Philippine Islands renounces all rights which it may have derived under Spanish law to appoint the governor and other officers of the bank or to interfere in any way with its administration, except to make examination of its solvency and supervise its conduct in the interest of the public in the same manner as such examination and supervision are or may be exercised over national banks in the United States and as prescribed by the laws of the Philippine Islands.

IV. That upon compliance with the preamble of this agreement, validity is given to all acts heretofore performed by the bank which would otherwise be legal and whose validity might be questioned by reason of the failure of the bank to comply with its statutes in regard to the participation of the government in the management of the bank.

V. That the government of the Philippine Islands renounces all right and title derived from Spanish law and the existing statutes of the bank to a loan of any money to the treasury of the Philippine Islands.

VI. That the treasurer of the Philippine Islands, provincial treasurers, and other authorized public officials shall, from time to time, deposit with the bank and its branches, upon such terms as may be prescribed by the government of the Philippine Islands, such public moneys and trust funds as may be available for this purpose without discrimination against the bank or in favor of other institutions; but this clause shall not bind such officials to make or maintain such deposits when, in their opinion, it is inadvisable.

VII. That the treasurer of the Philippine Islands and all assistant treasurers and provincial and municipal treasurers and other public officials shall be directed to receive the notes of the Banco Español-Filipino for public dues, without discrimination in favor of the notes of other banks or the certificates of the Philippine treasury, so long as said notes are paid in the lawful money of the Philippine Islands or of the United States without discount and on demand at the bank and its branches.

VIII. That the capital stock of the Banco Español-Filipino shall be authorized to an amount not to exceed ten million pesos, and its



circulating notes shall hereafter be issued under the following limitations of amounts and conditions:

(a) To a present amount not exceeding two million four hundred thousand pesos, which shall be secured by the paid up and unimpaired capital of the bank and by the value of the surplus as ascertained by the governor of the Philippine Islands; and in case such capital and surplus shall not, in the opinion of the governor of the Philippine Islands, be equal in value to the amount of circulation herein authorized, then said governor may require a contraction of such circulation until it shall not exceed the value of the capital and surplus of the bank, or the deposit with him of commercial paper conforming to the statutes of the bank and acceptable to him, for any excess in the amount of circulation above the value of the capital and surplus as ascertained and determined by him. And said bank is hereby authorized to issue its circulating notes secured by its capital as herein provided in equal proportion with such increase of paid in capital stock in cash, not exceeding nine million pesos; and all notes so issued shall be governed by the provisions of this section.

(b) To a present additional amount not exceeding six hundred thousand pesos upon deposit with the treasurer of the Philippine Islands of bonds of the United States, bonds or certificates of the government of the Philippine Islands, bonds of the city of Manila, stock or bonds of railways or mortgage banks upon which interest or principal has been guaranteed by the government of the Philippine Islands, or other securities acceptable to the treasurer of said Philippine Islands, and the percentage of circulation to be allowed upon the face value or market value of each of said class of securities shall be determined by said treasurer of the Philippine Islands. Such notes may be issued at the discretion of the bank, subject only to the condition that the securities deposited shall be acceptable in character and amount to the treasurer of the Philippine Islands, and without regard to whether issues have been made or applied for under other provisions of this act. And, in case of the increase of the paid up and unimpaired capital of the bank from two million four hundred thousand pesos to three million pesos, the treasurer of the Philippine Islands shall deliver to the bank the securities deposited with him to cover circulating notes under this paragraph (b).

It being the intention that the total circulating notes issued under this agreement shall never exceed in amount nine million pesos; secured by at least an equal amount of the paid up and unimpaired capital of the bank; except as hereinbefore provided under paragraph (b) of section VIII.

IX. That all outstanding notes of the bank shall, after January 1st, 1908, constitute a preferred lien upon the assets of the bank, except as to such securities as have been specifically deposited under special agreements with public officials for the safe-keeping of public moneys.

X. That the bank renounces all claim to the exclusive privilege of issuing notes in the Philippine Islands or to any other exclusive privilege not set forth in this act; but the government of the Philippine Islands will make no laws or regulations affecting the bank, or imposing charges or taxation upon it, which shall not apply equally to

other banks of a similar type operating under similar conditions, and will not authorize any bank with an ascertained capital and surplus of less than two million pesos to issue circulating notes in the Philippine Islands; but this provision shall not preclude the government from granting special privileges to agricultural banks, savings banks, mortgage banks, or other institutions of special type whose principal business is not commercial banking.

XI. That in case the paid-up capital of the bank is increased by the bona fide sale of new stock at not less than par for cash, the government of the Philippine Islands shall authorize an increase in the amount of circulating notes equal in amount to said increase in capital, but the total circulating notes so issued shall in no case exceed in amount nine million pesos (₱9,000,000).

XII. That the notes issued under the provisions of paragraph (a) of Section VIII of this agreement shall pay a tax at the rate of one-half of one per centum per annum; and the notes temporarily issued under the provisions of paragraph (b) of said Section VIII of this agreement shall pay a tax at the rate of one per cent per annum, such taxes to be assessed upon the amount of notes actually in circulation outside the bank and its branches, upon the average circulation per week or at fixed intervals not less frequently than once a month, to be determined by regulations made by the treasurer of the Philippine Islands.

XIII. That the notes of the bank shall hereafter be issued to the bank by the treasurer of the Philippine Islands, who shall make requisitions upon the Bureau of Insular Affairs at Washington for such a supply as may be necessary to anticipate reasonable demands and keep such notes in his custody in the treasury of the Philippine Islands; but said notes shall not have validity as currency until the seal and signatures are attached by the bank.

In witness whereof this memorandum of agreement in duplicate has been signed, this 8th date of June, A. D. 1907, by Jeremiah J. Harty, Archbishop of Manila, as representing the Roman Catholic Church, and by Wm. H. Taft, Secretary of War, as representing the government of the Philippine Islands.

JEREMIAH J. HARTY. [SEAL.]

*Archbishop of Manila.*

WM. H. TAFT. [SEAL.]

*Secretary of War.*

In presence of:

EUGENE DE L. McDONNELL.

PAUL CHARLTON.

*SAN LAZARO HOSPITAL.*

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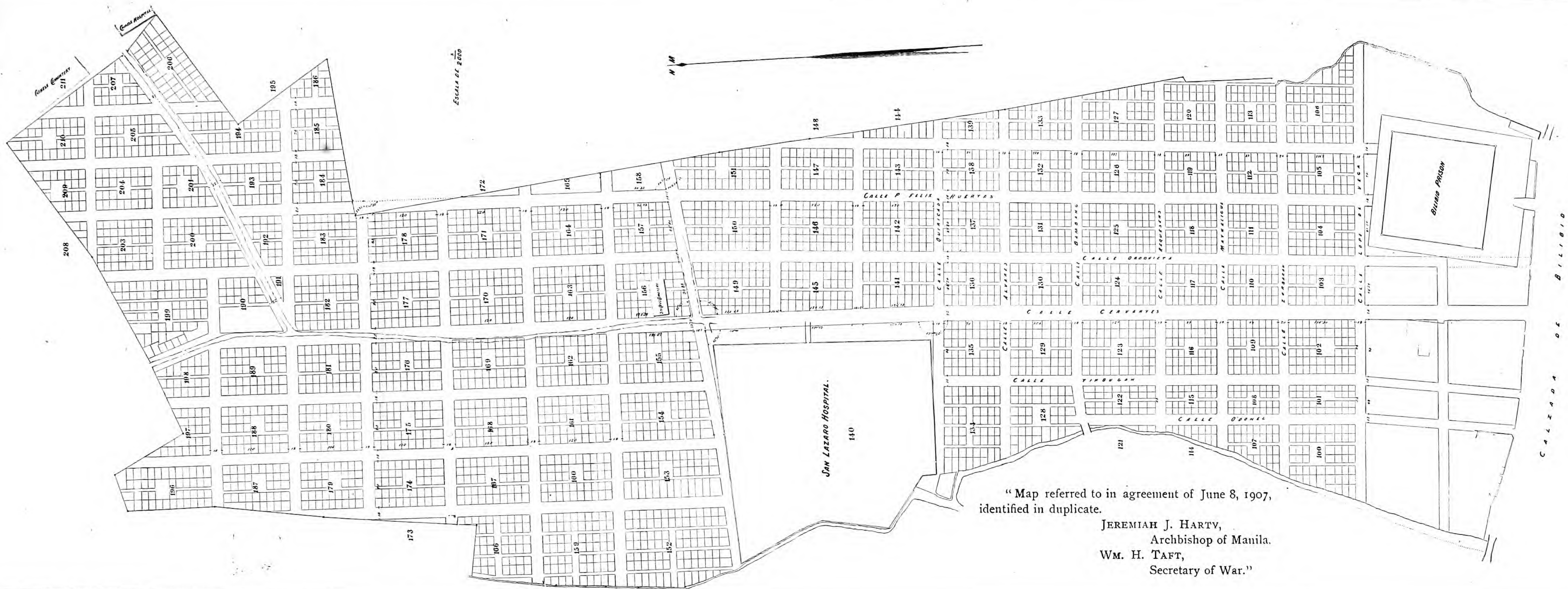
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*CALLE P FELIX*

*BLIND PRISON*

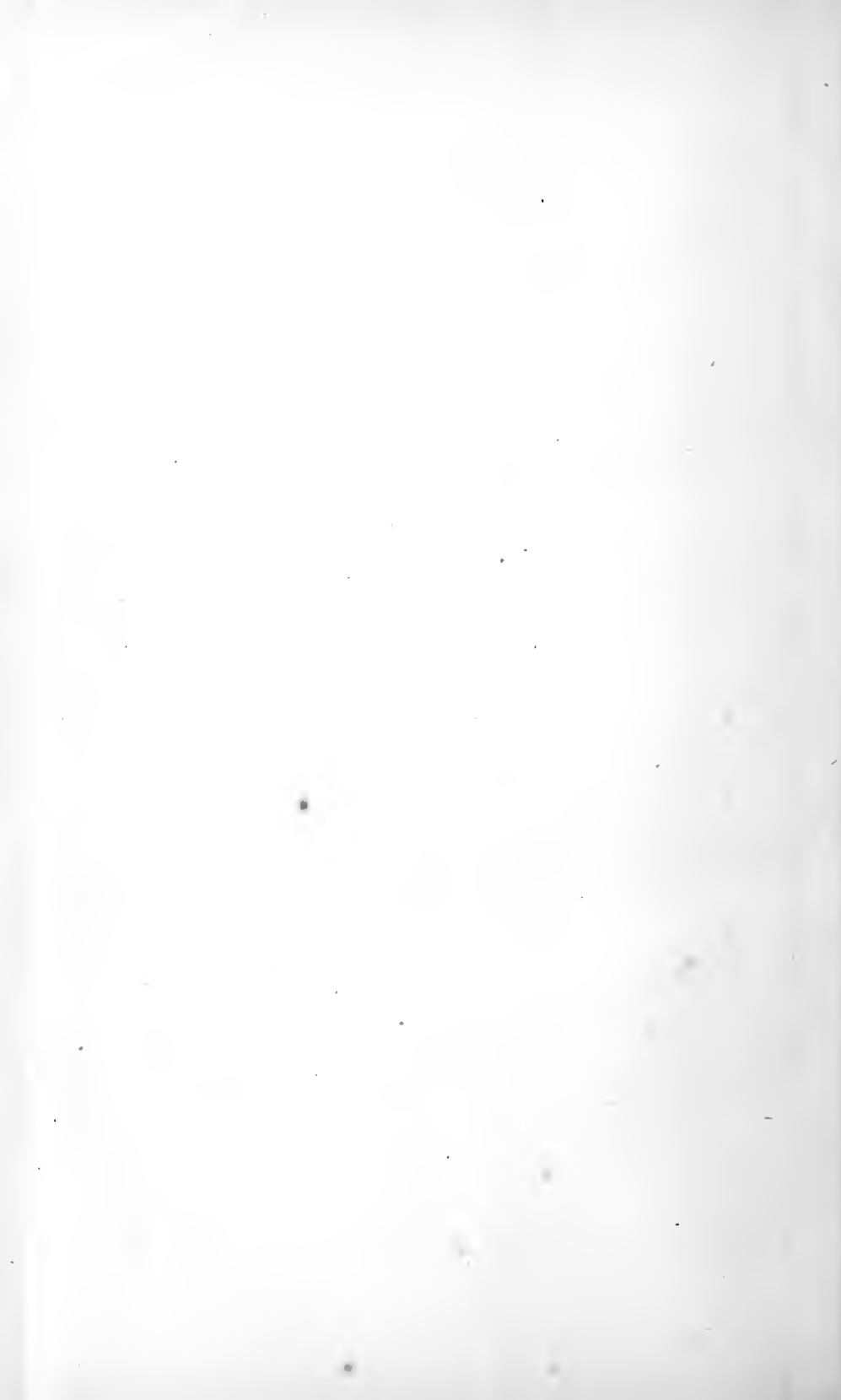
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"Map referred to in agreement of June 8, 1907,  
identified in duplicate.

JEREMIAH J. HARTV,  
Archbishop of Manila.  
WM. H. TAFT,  
Secretary of War."





## ARCHBISHOP HARTY'S PETITION TO THE PRESIDENT.

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MR. PRESIDENT: I am an American, and appreciate the good intentions of my country and the rectitude of those men whom it has sent to the Philippines to, in its name, take possession of and govern these islands. Accustomed as they are to the entire separation of Church and State, under which each administers that which pertains to it with absolute independence of the other, they are unable to understand that the King of Spain or his Governor-General in the Philippines should intervene in private affairs of the Church, nor could they admit that the property of the foundations, in which the Crown to some extent intervened, belonged to the Church. And this reasoning was correct, judging by the legislation of North America; no governing power in South America would concur therein, because none of those countries are unacquainted with the Apostolic Letters issued by Pope Julius II on July 28, 1508, granting to the Kings of Spain, as a reward of their fidelity, and as an incentive to carry on the arduous undertaking of discovering new islands and extending over them Christianity, the right of Patronate in all the countries already or to be discovered, that is, *the right to indicate fitting persons for appointment to any churches whatever*, exercising this right over the churches and all pious institutions;—nor are the Spanish laws decreed by virtue of this concession and which are contained in the “Digest of the Laws of the Indies,” unknown in those countries. And that is the reason for the extensive intervention which the Kings of Spain and their Viceroy in Spanish America, as well as their Governors-General in these Islands exercised in ecclesiastical matters the Viceroy and Governors-General exercised in the King’s name the Viceregal Patronate, and it was thus expressed in their official communications relating to the matters of the Church, for the dispatch of whose business they had a special office, and the King exercised the Patronate in the name of the Pope, who was the grantor thereof. But the Patronate does not signify the “property” of the Church, nor the ownership of the properties of the foundations over which it is exercised, but only the right granted in the concession; the ownership pertains to the Catholic Church, and if on account of any event whatever the Patronate ceases, as in the present case, the privilege granted reverts to the Church, and all things comprised in the grant become again under the jurisdiction of and are governed by the common ecclesiastical law.

The Patronate does not only represent an honor to be received, or a privilege to be exercised; it also represents duties to be fulfilled, because the Patron is obliged to contribute a portion for the construction of Churches, and to assist the hospitals and other founda-

tions over which he exercises the Patronate; the Spanish Government further paid a pension to all ecclesiasts who held office in the cathedrals and parishes, and also the amount necessary for the support of the Catholic worship: The Insular Government does not desire these honors and privileges, and is unwilling to give anything for the Church, because the American Constitution forbids; but on the other hand it asks what no Patron has ever asked because he had no right thereto—ownership of the pious foundations.

The last Spanish Governor-General well understood the doctrine just expressed, and upon the termination of Spanish sovereignty in the Islands, by virtue of the Treaty of Paris, directed a communication to my predecessor, the Most Reverend B. Nozaleda, then Archbishop of Manila, informing him that Spanish sovereignty in this Archipelago and the exercise therein of the Royal Patronate were about to cease; wherefore he furnished him this information so that he, as Prelate, might take charge of the foundations and Pious Works which pertained to the Royal Patronate.

#### COLLEGE OF SAN JOSÉ.

D. Esteban Rodriguez de Figueroa, a Spaniard who had been Governor of Mindanao, by a will executed in 1596 ordered a house to be built next to that of the Company of Jesus in the City of Manila which should serve as a Seminary for boys; to which end he left property, intrusting to the Father Provincial of the Company of Jesus of said City the Patronate and administration of said College. In August, 1601, the Vicar-General, through the Ecclesiastical Chapter, the See being vacant, granted to Father Luis Gomez, who had been appointed Rector of the College of San José by the Company of Jesus, a license to found said College "where the youth may be educated and instructed in good manners and letters, and ministers for the Holy Gospel reared," the Governor-General, in the name of the King, issuing on the same day his license for its foundation.

On May 3, 1722, at the request of the Procurator General of the Company of Jesus, Philippines Province, the King of Spain received the College under his Royal Protection, and granted the title Royal *ad honorem* "without burden to my Royal Treasury" to the Seminary of Grammatical, Philosophical and Theological studies, known as San José, founded by D. Esteban Rodriguez de Figueroa, on account of the great progress which the said College has made and is making in virtue and letters, and the many learned men who have come from it.

The Company of Jesus having been suppressed in the Philippines in the year 1768, the College of San José remained under the Royal Protection, and by Royal Order of March 21, 1771, it was ordered that its Rector be appointed from those of good conduct who had been students thereof, which appointment ordinarily fell to a capitulary of the Cathedral.

The College thus continued till the year 1875, when the King of Spain, exceeding, according to my understanding, the faculties which he possessed as Patron, ordered its income dedicated to the support of the faculties of Medicine and Pharmacy which he at the same time ordered established in the College, whose administration should be under the care of a Director appointed by the Vice-Royal Patronate; the College has continued till to-day in that manner.



## HOSPITAL OF SAN JUAN DE DIOS.

The Hospital of San Juan de Dios was founded in the year 1596 by the Brotherhood of the House of Misericordia established in Manila with the approval of the Ordinary, that the sick servants of Spaniards, Peninsula Spaniards and Mestizos might be cured therein. At that time there already existed in Manila the Hospital of San Gabriel, for Chinese, founded by an Archbishop; that for natives, which dates from the first days of the evangelization of these islands and, thanks to the charity of the first Bishop of Manila, intrusted to the Franciscan Fathers; and the Military Hospital, founded by the Government with the name of Royal Hospital.

The above classification is necessary because the Hospital of San Juan de Dios, formerly known as the Hospital of the Misericordia, on account of its origin, has been frequently and is still sometimes confounded with that of the Franciscan Fathers; as some people likewise confound this charitable institution with the Royal Hospital, which error arises from the mistaken idea that the Government was the founder of the Hospital of San Juan de Dios.

The work of the Hospital of the Misericordia (to-day San Juan de Dios) developed slowly, commensurate with the amounts it received from pious persons and the gifts worthily made to it. In this work the Misericordia was never assisted by the Government, and the latter never exercised any control over it, direct or indirect.

The Brotherhood of the Misericordia administered its Hospital as its own property, and was never at any time molested in the peaceful possession thereof or the free exercise of its government and administration as the owner and sole founder of that institution of charity.

So certain and strong was its right, that the King, by Royal Decree of December 5, 1659, issued with the object of authorizing the transfer of this Hospital to the Hospitalary Order of San Juan de Dios, makes known that the Patronate of this Hospital belongs to the Brotherhood of Misericordia.

On May 31, 1656, the Brotherhood of Misericordia made an irrevocable gift of its hospital to the Order of San Juan de Dios by a public writing before the Notary, D. Tomás de Palenzuela y Zurbarán, together with all the properties pertaining to it, but reserving the right of Patronate over the Hospital.

The Order of San Juan de Dios changed the name of the institution to that of their Holy Founder, and administered it independent of the civil authorities and of the Royal Patronate till the year 1865, when, for lack of proper personnel and other reasons which are not germane to the case, they ceased administering the said Hospital in conformity with the Royal Order of August 17th of that year, at which time the Spanish Government first invoked the privilege of its Patronate.

A board, composed of gentlemen of the city of Manila, was designated by the new Patron to administer the Hospital of San Juan de Dios.

Upon the change of sovereignty over these Islands the Board of Directors delivered the said Hospital and all its properties to the Archbishop of Manila, who exercises thereover the Patronate by his own right, as Prelate of this Diocese, now that the privilege of Royal Patronate has ceased.

## HOSPITAL OF SAN LAZARO.

The Hospital of San Lazaro was founded inside the old City of Manila by a Franciscan lay brother in the year 1578. In March, 1583, this Hospital was entirely destroyed in the great fire which consumed nearly the whole City.

The first Bishop of Manila, D. Domingo de Salazar, built at his own expense a new hospital within the said City for the poor natives, and constructing a special department for lepers, intrusting its administration to the Franciscan Fathers. In 1603 this Hospital was again destroyed by fire.

The Franciscan Fathers bought sufficient land to erect a new hospital for lepers between the old town of Dilao and Malosac, and there established it.

Governor Corcuera attempted to exercise undue authority by reason of the Vice-Royal Patronate over this Hospital, and the Franciscans protesting against his decision, besought the King, who disapproved the measures taken by Corcuera in his Royal Decree in the year 1641.

In 1662, by reason of the preparation of defenses of the City of Manila, during the Governorship of General Manrique, the building of this Hospital was destroyed. Later another building was constructed between the old town of Dilao and Balete.

By the Royal Order of April 2, 1767, the Jesuit Fathers were expelled from the Spanish domain, and the Treasury took over all their properties. The said Treasury wrongly considered that the property of San Lazaro, known as Mayhaligue, was private property of the Company of Jesus, omitting to take into account that it was an ecclesiastical benefice, and that if the Jesuits enjoyed the fruits thereof it was in their capacity of parish priests of Santa Cruz. The Government in the Philippines persisted in this error, and it may be that, the origin of the property being known to it, it wished to make amends for the wrong done, and the Vice-Royal Patron, Señor Basco, granted to the Franciscan Fathers that which had formerly been used for the support of the Cult, that is, the hacienda of Mayhaligue.

The concession to the Hospital of San Lazaro of the lands of Mayhaligue took place in 1783, in compensation for the damage caused by having to abandon the Hospital in Balete under military orders. The King approved this transfer in 1784.

The Franciscans took possession of the new house in 1785, and of the Hacienda in the year 1786.

The Hacienda of Mayhaligue, to-day known as San Lazaro, and which constitutes part of the property of the Hospital of that name, was originally an ecclesiastical benefice belonging to the Parish of Quiapo, to which Parish said Hacienda had belonged since its creation, its products serving for the proper maintenance of said parish.

In this Hacienda there were a large number of Chinese settlements, similar to those in the old Parian, whose evangelization was in charge of the Dominican Fathers of San Gabriel.

To procure the more rapid conversion of the Chinese of Mayhaligue to Christianity, the Jesuit Fathers asked of the ecclesiastical authorities the division of the parish of Santa Cruz, in Manila, adjoining the parish of Quiapo, to establish there a new parish independent of the Mother Church, to include all the lands of Mayha-

ligue. The Bishop of Cebú, Ecclesiastical Governor of Manila, Father Pedro de Arce, on June 20, 1619, without complying with the requisites of law, and without taking into account that the See of Manila was then vacant, transferred the lands of Mayhaligue to the Company of Jesus. The Cathedral Guild protested against this transfer, and for five years the Jesuits did not make use of such illegal cession.

An account of this was given to the King, as Patron of the Churches of Asia, and by his Royal Decree of November 8th, 1645, he declared illegal and void the grant of the division of Santa Cruz, as well as others which had been made to the Jesuit Fathers.

During the time of D. Hernando Guerrero the grant of the division of Santa Cruz Parish to the Jesuit Fathers was again discussed, and this Archbishop declared null and of no effect the said division, ordering at the same that the Doctrine of Santa Cruz, together with its properties, be returned to the Parish Church of Quiapo.

Later, and on account of the differences which this same Archbishop had with Governor Corcuera on account of his defense of the diocesan authority and the rights of the Church, said Governor exiled the Archbishop to Mariveles. The Guild and the Religious Orders asked the Governor to raise the exile of the Archbishop, and the said Governor, in acceding to their request, laid down certain conditions, one of which was to the effect that the Archbishop must again grant to the Jesuit Fathers the division of Santa Cruz Parish. The Prelate refused to accede to this, but in view of the need which the Church had of a Pastor, he gave in against his will and through force majeure.

On the 13th of August, 1898, upon the surrender of the City of Manila, the Franciscan Father in charge of the Hospital withdrew to the Convent in Manila so as not to fall a prisoner in the hands of the insurrectos, who entered Manila from that quarter. Every day thereafter he sent from the Convent the necessities for the support of those in the Hospital. As the Hospital was situated at a point controlled by the insurrectos, the Provincial of the Franciscan Order informed the American Commanding General that he could not administer it unless he were furnished soldiers for protection. The General did not furnish the protection asked for, but took possession of said Hospital and its properties, and up to the present neither the Military Government nor the Civil which succeeded it have returned the administration of the Hospital to its legal owners and administrators.

#### HOSPICIO OF SAN JOSE.

The foundation of the Asylum (Hospicio) of San Jose dates from the year 1782, and is due principally to D. Francisco Gomez Enriquez, a Peninsular Spaniard, and to his wife, Da. Barbara Verzosa, who dedicated to this benefice, the former \$4,941, and the latter a credit of \$24,000 and odd pesos, as well as an urban property, to the end that by putting this capital into the Acapulco commerce it would produce enough to maintain the pious work of its institution.

The trustee of the founders, using the powers conferred upon him, placed the Hospicio under the protection of the Archbishop of Manila, as "father of the poor" (the words are textual), and it was put in charge of the Administrator of the Obras Pias of the Mitra.

The Spanish Colonel D. Felipe Cerain dedicated to the Hospital more than \$31,000 in the year 1806.

The Archbishop of Manila, in view of the fact that the Hospicio was a true pious work and desiring to aid it, donated thereto large sums accruing from various other pious works.

This beneficent institution, destined to shelter poor beggars of all classes and ages who were without means of support, was not really begun till the year 1809.

The construction of the Hospicio was carried on with private funds and without any assistance whatever from the Government.

The Hospicio bought with its own funds from the Spanish Government a house, in which the institution was installed.

There had existed from the creation of the Hospicio, for purposes of administration and government, a Board composed originally of the Governor-General, in his capacity of Vice-Royal Patron, President, two dignitaries of the Cathedral chapter and other persons of the community, none of whom exercised his functions as a State official, and whose services were always honorary and gratuitous. Later the Presidency fell to the President of the Supreme Court, and some years thereafter to the Provincial of the Augustinian Order; at the present time the office is filled by a dignitary of the Cathedral.

The appointment of the gentlemen composing the Board of the Hospicio were made by the Governor-General, as Protector and in his capacity as Vice-Royal Patron, and he never exercised this prerogative as Civil Superior Chief.

The acquisition of the property which the Hospicio had formerly purchased of it appearing desirable to the Insular Spanish Government, for the purpose of installing a cigar factory therein, the Government asked that it be sold back to it, which was done.

The loss of the American Colonies to Spain occasioned a considerable diminution of the capital of the Hospicio, wherefore the Spanish Government, as compensation for the benefits derived from the Institution, granted it various credits from the extinguished Mezitzo Battalion, some of which were very difficult of collection, and also 1,000 pesos yearly from the Community Funds, together with  $1\frac{1}{2}$  per cent cereal tax. The appropriation of the thousand pesos yearly was very shortly suspended. The Community Funds were for the greater part composed of the funds known as the Sanctorum,—the proceeds of the special assignments for the support of the Cult and Clergy.

The present building of the Hospicio of San Jose was constructed in the year 1880 with private funds of the Hospital, upon land belonging to the Hospital of San Juan de Dios known as the Island of Convalence, and which was acquired by the Hospicio in exchange for a certain loan to the Hospital of San Juan de Dios.

The Board of the Hospicio, upon the change of sovereignty in these Islands, considering the Hospicio of San Jose a pious work (*obra pia*), as it had always been considered, made formal delivery of said Institution, together with all its properties, to the Archbishop of Manila, and from that time on the said Archbishop is the only one who appoints the personnel necessary for the management and administration of the Hospicio, in his capacity of Protector thereof.

## VALUATION OF THE FOUR FOUNDATIONS.

## COLLEGE OF SAN JOSE.

The value of the building, with all its furniture and fixtures, and its two haciendas of Lian (Batangas) and San Pedro de Tunasan (La Laguna), is calculated to be five hundred and forty-seven thousand dollars and fifty cents United States currency (\$547,000.50).

## SAN JUAN DE DIOS HOSPITAL.

The value of the building, with its furniture and fixtures, and its hacienda of Buenavista, is calculated to be one million one hundred and four thousand dollars, United States currency (\$1,104,000).

## SAN LAZARO HOSPITAL.

The value of the buildings and its hacienda is calculated to be two million dollars, United States currency (\$2,000,000).

## HOSPICIO OF SAN JOSE.

The value of the building with all its furniture and fixtures, and the house belonging to the Hospicio on Calle Rosario is calculated to be four hundred and fifty thousand dollars and fifty cents, United States currency (\$450,000.50).

There are, besides, other pious foundations, such as the Hospital of San José of Cavite, the Misericordia, in which are comprised the College of Santa Isabel and Santa Potenciana, and some others of minor importance, as for instance, Capellanías (chaplaincies), which serve for ordinations. I will say and affirm with respect to all the Pious Foundations in this Diocese that they are ecclesiastical and not civil; that the State, has never intervened in them, that is to say, as a civil entity, except the King of Spain as Patron in the name of the Pope, or the Governor-General as Vice-Royal Patron, in name of the King, as I have hereinbefore set forth.

The right, then, to these foundations is exclusively of the Catholic Church, as is recognized by the prominent jurists, and I am confident that the courts of justice will support my right if these questions are carried thereto. I concur, notwithstanding, in the fear which Mr. Taft expresses as to the litigation being long drawn out; this however, will not be due to the legal difficulties involved therein, but to the inexplicable delays which occur, as is now the case in the San José College suit—now pending about six years without a decision being rendered—which is not a very favorable indorsement of the prompt administration of justice in the Philippine Islands.

In order to avoid litigation the worthy Secretary of War suggests that a compromise might be made whereby all these questions could be adjusted, the Government retaining the Foundation to San Lazaro and abandoning all claim of right and power to administer the other Foundations. That is to say, we are asked to make an absolute cession of the Hospital and Hacienda of San Lazaro, which, while not the largest, is the most important and valuable.

I could not accept a compromise in this form, because I consider it to be ruinous, notwithstanding, I am disposed to enter, not into a transaction, which in my judgment is not in order because there are

no doubtful rights involved, but into an agreement, the basis of which might be any of the following:

First. The Catholic Church will cede to the Insular Government the Hacienda of Mayhaligue, to-day called San Lazaro, reserving to itself the lands and buildings situated within the walls which surround the same, and also the land comprised within the following limits: Bounded on the South by Calzada de Bilibid; on the East by Calle Cervantes; on the West by an Estero; and on the North by the said walls of San Lazaro. This land contains approximately 50 hectares, and the entire Hacienda, according to the latest plans, contains 161 hectares.

If this proposition is not accepted, it is proposed that—

Second. The Catholic Church will cede to the Insular Government the Hacienda of Mayhaligue, reserving to herself the Church Edifice or Temple contiguous to the Hospital, the 50 hectares comprised within the limits expressed in the above basis, and also the land comprised between Calles Oroquieta and Cervantes to the East and West and Calles Bilibid and Quiricada to the South and North,—7 hectares approximately in extent.

If this basis be not accepted, it is suggested that—

Third. That is, divide the Hacienda into two equal parts, one of the Catholic Church and the other for the Government; or failing this, to give to the Church in money the value of the half, as per assessment.

The Archbishop of Manila has a right to this Hacienda.

And to prove that this is so, and that neither the State nor the Municipality has any right of ownership over the land of this Hacienda, I need not go into any long reasoning; I will present only one proof, but it is irresistible: THE SPANISH GOVERNMENT BOUGHT OF AND PAID TO THE CHURCH, THE AMOUNT OF THE VALUE OF LAND NECESSARY TO CONSTRUCT BILIBID PRISON, SITUATED ON THE SOUTHEAST CORNER OF SAID HACIENDA, AS MAY BE SEEN BY THE CERTIFICATE ISSUED BY THE CHIEF OF THE BUREAU OF ARCHIVES OF THESE ISLANDS, AND THE PLAN THEREOF, WHICH DOCUMENTS I SEND HEREWITH.

NO ONE BUYS THAT WHICH IS HIS.

I trust, that one of these propositions will be accepted. If it be desired that the Church expand, work and exercise her good influence for the morality, well-being, and tranquillity of the people, she must not be deprived of the elements necessary for sustaining life; as in the end, whatever she receives and has, is but to use and spend for the benefit of the people itself, whose betterment and happiness form her constant aspiration.

And if, after the terrible devastation wrought by the war and insurrection, and the enormous losses incident thereto which the Church in the Philippines has suffered in its material interests, she is to be asked to cede all the Hacienda of San Lazaro, it would be as well to ask her to seclude herself within the walls of her almost ruined Temples and to renounce the work which constitutes her life.

JEREMIAH J. HARTY,  
*Archbishop of Manila.*

To His Excellency, THEODORE ROOSEVELT,  
*President United States.*

PROPOSALS MADE BY ARCHBISHOP HARTY TO THE SECRETARY  
OF WAR.

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WASHINGTON, D. C., *March 1, 1907.*

DEAR MR. TAFT: I have the honor to submit the following propositions tending toward a speedy adjustment in the matter of the San Lazaro estate, Manila, P. I.:

*First.* The Catholic Church will cede to the insular government the hacienda of Mayhaligue, to-day called San Lazaro, reserving to itself the lands and buildings situated within the walls which surround the same, and also the land comprised within the following limits: Bounded on the south by Calzada de Bilibid; on the east by Calle Cervantes; on the west by an estero, and on the north by the said walls of San Lazaro. This land contains approximately 50 hectares, and the entire hacienda, according to the latest plans, contains 161 hectares.

If this proposition be not accepted, it is proposed that—

*Second.* The Catholic Church will cede to the insular government the hacienda of Mayhaligue, reserving to herself the church edifice or temple contiguous to the hospital, the 50 hectares comprised within the limits expressed in the above basis, and also the land comprised between Calles Orquieta and Cervantes to the east and west, and Calles Bilibid and Quiricada to the south and north, 7 hectares, approximately, in extent.

If this basis be not accepted, it is suggested that—

*Third.* That is, divide the hacienda. And to prove that this is true, and that neither the State nor the municipality has any right of ownership over the land of this hacienda, I need not go into any long reasoning. I will present only one proof, but it is irresistible: THE SPANISH GOVERNMENT BOUGHT OF AND PAID TO THE CHURCH, THE AMOUNT OF THE VALUE OF LAND NECESSARY TO CONSTRUCT BILIBID PRISON, SITUATED AT THE SOUTHEAST CORNER OF SAID HACIENDA, AS MAY BE SEEN BY THE CERTIFICATE ISSUED BY THE CHIEF OF THE BUREAU OF ARCHIVES OF THESE ISLANDS, AND THE PLAN THEREOF, WHICH DOCUMENTS I SEND HEREWITH.

NO ONE BUYS THAT WHICH IS HIS.

I trust that one of these propositions will be accepted. If it be desired that the church expand, work, and exercise her good influence for the morality, well-being, and tranquillity of the people, she must not be deprived of the elements necessary for sustaining life; as, in the end, whatever she receives and has is but to use and spend for the benefit of the people itself, whose betterment and happiness form her constant aspiration.

And if, after the terrible devastation wrought by the war and insurrection, and the enormous losses incident thereto which the church in the Philippines has suffered in its material interests, she is to be asked to cede all the hacienda of San Lazaro, it would be as well to ask her to seclude herself within the walls of her almost ruined temples and to renounce the work which constitutes her life.

JEREMIAH J. HARTY,  
*Archbishop of Manila.*

To His Excellency the Hon. WM. H. TAFT,  
*Secretary of War.*

Should you accept any of the above-mentioned propositions, I wish it to be understood that the Government will withdraw all claims to the title of the properties known as the College of St. Joseph, the Hospice of St. Joseph, the College of St. Isabel, the Hospital of St. John of God, in Manila, and the Hospital of St. Joseph, in Cavite, with the properties belonging to them.

J. J. HARTY,  
*Archbishop of Manila.*



## DECISION OF THE PHILIPPINE COMMISSION IN THE SAN JOSÉ COLLEGE CASE.

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BEFORE THE UNITED STATES PHILIPPINE COMMISSION.

T. H. Pardo de Tavera and others, for themselves and other inhabitants of the Philippine Islands, *against* the rector of the University of St. Thomas, a Dominican monk, and the Holy Roman Apostolic Catholic Church, represented by the most reverend the archbishop of Manila, and the most reverend the archbishop of New Orleans, apostolic delegate.

(Conclusions announced by the Commission.)

In the instructions given by the President of the United States to the Secretary of War for the guidance of the United States Philippine Commission was the following direction :

It will be the duty of the Commission to make a thorough investigation into the titles of the large tracts of land held or claimed by individuals or by religious orders; into the justice of the claims and complaints made against such landholders by the people of the island, or any part of the people, and to seek by wise and peaceable measures a just settlement of the controversies and redress of the wrongs which have caused strife and bloodshed in the past. In the performance of this duty the Commission is enjoined to see that no injustice is done; to have regard for substantial right and equity, disregarding technicalities as far as substantial right permits, and to observe the following rules :

That the provision of the Treaty of Paris, pledging the United States to the protection of all rights of property in the islands, and as well the principle of our own Government, which prohibits the taking of private property without due process of law, shall not be violated; that the welfare of the people of the islands, which should be a paramount consideration, shall be attained consistently with this rule of property right; that if it becomes necessary for the public interest of the people of the island to dispose of claims to property, which the Commission finds to be not lawfully acquired and held, disposition shall be made thereof by due legal procedure, in which there shall be full opportunity for fair and impartial hearing and judgment; that if the same public interests require the extinguishment of property rights lawfully acquired and held, due compensation shall be made out of the public treasury therefor; that no form of religion and no minister of religion shall be forced upon any community or upon any citizen of the island; that upon the other hand no minister of religion shall be interfered with or molested in following his calling; and that the separation between state and church shall be real, entire, and absolute.

Soon after the Commission reached Manila it was consulted by General MacArthur, the military governor, as to the proper course for him to take on the petition of the rector of the University of St. Thomas, asking him to revoke an order made by his predecessor, General Otis, in 1899, which forbade the rector of the University of St. Thomas to continue to maintain a school of medicine and pharmacy in the buildings of the College of San José, and to use its name and income for that purpose. The order of General Otis had been made at the instance of the president and directors of the Philippine

Medical Association, who claimed that the foundation of the College of San José had been completely under the control and administration of the Spanish Government as a public institution, and passed by virtue of the treaty of Paris to the United States Government, and that though the Spanish Government had permitted the college to be administered for it by the Dominican order, the United States Government, in which there is a complete separation of church and state, should maintain the administration of a school, with purposes so entirely secular as that of the teaching of medicine, free from sectarian and monastic influences. General Otis's order did not take away from the control of the rector of the university the property of the College of San José, but merely forbade the opening of the college as a school of medicine and pharmacy. The property of the foundation, therefore, is still in the possession and under the control of the rector of the University of St. Thomas, except that he is prevented by the terms of the order from opening a college of medicine and pharmacy therein.

The corporation of the College of San José owns two large haciendas. The issue here presented involves the question of the control of that property. Under the instructions of the President, the Commission deemed it its duty to investigate the issue involved and to bring it to a legal settlement. It so advised the military governor and suggested that he delay action upon the petition of the rector of the University of St. Thomas until the investigation could be had, and that meantime the college might be opened under the joint control of representatives to be appointed by each party. Joint control was unsatisfactory to both parties, and the military governor therefore decided not to change the status quo under the order of General Otis until the Commission should conclude its hearing and express to him its view of the proper action to be taken on the petition of the rector of the university. The hearing of the case was begun in July and continued from time to time until October. Dr. T. H. Pardo de Tavera appeared as the party complainant, representing the Philippine Medical Association and those of the Philippine people interested in secularizing the control of the College of San José. The Most Rev. Fr. Bernardino Nozaleda de Villa, Archbishop of Manila, and the Most Rev. P. L. Chapelle, Archbishop of New Orleans and apostolic delegate, appeared in behalf of the Holy Apostolic Roman Catholic Church and asked that it be substituted as a party to the issue instead of the rector of the University of St. Thomas, on the ground that the rector only represented the church in his control of the college. The archbishops were permitted to appear in this representative capacity and to defend against the prayer of complainants.

The pressing engagements of the Commission in other matters prevented a speedier hearing, and have delayed the announcement of its conclusions until now.

The questions in the case are these:

Did the Government of the United States, as claimed by the complainants, acquire by the treaty of Paris the right and power to provide for the control and management of the foundation and properties of the College of San José, as an institution under the secular and civil control of Spain in the Philippine Islands, so that the United States should now by law give to the college a directory, nonsectarian

in character, to maintain and conduct it as a school of medicine and pharmacy? Or—as claimed on behalf of the Catholic Church—have the foundation and properties of the College of San José, under the canonical law and the civil law of Spain, always been subject to the ultimate control of the church for sectarian charitable purposes—a control exercised by the King of Spain only by virtue of a concordat between him and the Pope, as head of the Catholic Church.

It is indispensable to a proper discussion of these questions that the history of the College of San José, as shown by the evidence and documents before us, should be stated. It was agreed between the parties that, for the convenience of themselves and the Commission, a statement of the facts, made by Lieutenant-Colonel Crowder, military secretary, in a report concerning the status of the college, to the military governor, should be taken as accurate, but that it might be supplemented by additional documents and evidence to be produced by either party. Additional documents have been produced by the parties and we do not understand that the authenticity of any of the documents adduced on either side has been denied. With the record of the case thus fixed, we proceed now to state, as succinctly as may be, the history of the College of San José.

On the 8th of June, 1585, the King of Spain, upon information that the fathers of the Society of Jesus had done much good work in teaching in the islands, and that their retention and increase was desirable, and that they should be assisted by the establishment of a college, commanded the governor and the bishop of the islands to report to him how the college could be instituted and the necessities of the Jesuit Fathers provided for. In 1601, on the 25th day of August, the provisor and vicar-general of the Archbishopric of Manila, upon the application of the Jesuit Father, Louis Gomez, granted permission to the petitioner and his order to found and establish the College of San José for the purpose of bringing up young people of the city of Manila and rearing them according to good manners and learning and of creating such ministers of the Holy Gospel as might be needed in the land and to perform masses in the college. Upon the same day the governor and captain-general of the Philippines in the name of the King of Spain granted a similar license to the same applicant. How far the Jesuit Fathers were successful in establishing a college for the purposes mentioned between 1601 and 1608 does not appear very clearly. Certain it is that a school was opened called San José, but there appears to have been no property foundation of any kind until after 1605. In the month of March, 1596, Rodriguez de Figueroa, then governor of Mindanao, made the following will:

In the name of God. Amen. Know all whom this will may see that I, Esteban Rodriguez de Figueroa, governor and captain-general of Mindanao and of its district, now a resident of the village of Arevalo, legitimate son of Duarte Rodriguez de Figueroa and Da. Isabel Gonzales, my parents, formerly residents of the city of Jerez de la Frontera, in the Kingdom of Castile, being in good bodily health and in my natural understanding and memory, such as pleased our Lord to give me, and believing, as I truly and firmly believe, in the Most Holy Trinity, Father, Son, and Holy Ghost, three persons, and only one true God, who lives and reigns, without beginning and without end. And taking as I do the Holy Virgin Mary as my lady and advocate in all my actions, and desiring to place my soul in course of salvation, and naturally fearing death, I execute, acknowledged by these presents, and order this my last and ultimate will, in the manner and form as follows:

And so that God, our Lord, should not allow any of my said children to die before they become of age, competent to make a will, I, as their father and legal administrator, am competent to make a will for them in such case, and by virtue of said power, I order and command that if the aforementioned happens, their mother, Ana de Oseguera, if surviving, inherit the estate of the deceased and of both, the third and the remainder of the fifth being devoted to what is hereinafter declared, and if said D. Ana de Oseguera and my said children, or either of them, die without leaving heirs in the descending line, then, in such case, their estate and their legal paternal or maternal portion, together with the rents and profits therefrom, shall be devoted to the foundation of a college in the manner hereinafter stated, the same being done, if said Da. Ana de Oseguera survives, with the third and remaining fifth; in either one or the other event, a house must be constructed near the Society of Jesus of Manila, sufficient to serve as a college and seminary for boys, where all those be admitted who should desire to enter the primary classes of said seminary; I pray and request whoever may be the provincial of said society to furnish such boys with sufficient teachers for that purpose, the remaining part of said building, not used for that purpose, to be rented for the purpose of maintaining such children and boys; the said father provincial to be the patron and administrator of said college, and no one can enter therein without his permission and authority; to visit and to correct and arrange all of its things, to order said sale, buy the possession and the building, and to appoint a collecting agent and other officials and ministers with the power and authority necessary to such ministry, without said college, nor any judge, nor any secular nor ecclesiastical administration of justice taking part therein, notwithstanding any pretensions that may be advanced. And if any rent remains after payment of maintenance for said boys and of clothing for those who are poor, the said patron may dispose of it at his will for the benefit of said college and of the society or of any other pious work, as he may deem best, without at any time asking or taking any account therefor from him, for any cause or reason.

I revoke, annul, and declare as of no value and effect any will, order, or codicil which I may heretofore have made, so that they be of no value except this one, which I desire to be valid as my last and ultimate will, in the course and form which is proper under the law.

In testimony of which I have executed it and signed it with my name at the village of Arevalo on the sixteenth day of the month of March, 1596.

In 1605, after the death of Governor Figueroa, the event happened which fulfilled the condition of the gift of the testator to found a college. Part of the funds or property which thus became available were in the City of Mexico, and in order to obtain them it became necessary to apply to the King of Spain to permit the transmission of the annual income from Mexico to the Philippine Islands. An application was accordingly made by the head of the Society of Jesus, in which the facts were set forth substantially as before stated, and the necessary permission was requested. By decree of September 13, 1608, this permission was granted as necessary to the founding of a college and seminary in the city of Manila, where the children of the residents of said islands should be educated, and where such a college was needed so much for the purposes of study and of creating ministers of the gospel, of which the applicant, the procurator of the Society of Jesus in the Indies, had been designated as patron. On the 28th day of February, 1610, the vicar-general of the diocese, upon an application of the provincial of the Society of Jesus, after reciting the will of Figueroa, the appointment of the provincial as patron, the establishment of the college, the foundation of twenty scholarships, renewed and confirmed the license and permission of 1601 to Father Gomez to establish the college and celebrate masses therein. On July 12 and 27, 1669, King Philip IV made an unconditional grant to the college of \$8,000, and on July 27 of the same year Queen Mariana, of Austria, made a similar grant of \$12,000. On the 3d of

May, 1722, the King of Spain received a petition from the head of the Society of Jesus in these islands, stating that the society was administering in the city of Manila "a seminary for grammatical, philosophical, and theological students in the name of San José, founded by Don Esteban Rodriguez de Figueroa," and praying in consideration of the good that it had done and on account of the particular benefit which would result to the whole of said republic that the King receive it within his royal protection, granting it the rights, privileges, and preeminences of a royal college without any prejudice to his royal treasury, with authority to place his royal coat of arms over its doors and other customary places, and to make use of the title in documents and letters. The King deemed it proper to grant the request, admitted the College of San José within his royal protection, honoring it with the royal title of *ad honorem* in case it should have no patron, upon express condition that it should never cause or produce prejudice or embarrassment to the royal treasury by reason of the title. He commanded the governor of the Philippine Islands and prayed and requested the archbishop of the Metropolitan Church of the city of Manila not to place or allow any embarrassment or impediment whatever to the enjoyment by the College of San José, administered by the members of the Society of Jesus, to the enjoyment of the royal title thereby granted and the other privileges in respect thereto.

In 1768, by the pragmatic sanction, the Jesuits were expelled from the Philippine Islands, their properties were seized by the Crown, and in lieu thereof pensions were allowed to the order. As part of the properties, the governor of the islands seized the College of San José and its estates and treated them in every respect as confiscated to the Crown. The college building was turned into barracks. Against this confiscation the archbishop protested and petitioned the governor-general that, pending the King's action on the protest, the college be delivered to him. The petition was granted, and the archbishop took possession of the college and converted it into a religious seminary for natives. Against this action of the archbishop the court of the audiencia protested to the King, contending that the College of San José should upon principles of law revert to the status fixed by its foundation.

On March 21, 1771, the King acted on the representation of the audiencia and the protest of the archbishop. He disapproved the seizure and despoliation of the properties of the San José College by the governor, but he also disapproved the conversion of the college into a seminary, made subsequently in common accord by the archbishop and governor. In the rescript of the King upon the issue thus presented, he held that the action of the governor was entirely contrary to what was ordered in the instructions for the expulsion of the Jesuit priests, and against the right which those who were in the college at the time, and those who should succeed them in the future, had legitimately acquired to maintain themselves there; that the new order of things in regard to the want of teachers could not serve as an excuse, since priests would not be lacking to be substituted for the present, and in time they would become suitable persons for sustaining this laudable foundation; that the spoliation had been a cause of the most serious damage and pernicious consequence, as it was shown

that the said college was founded with a view to instructing the sons of leading Spanish subjects of that city in grammar, philosophy, and theology; that twenty scholarships were created in it for that many more collegians; that their instruction was undertaken and the direction was intrusted to the expelled priests of the society; that the father of the then King had been pleased to receive it under his sovereign protection on May 3, 1722, and to decorate it with the title of royal *ad honorem*, provided it should have no other patrons, and upon the express condition that it never would or could produce a burden or charge of any kind on the royal treasury, and that the said Order of the Society of Jesus had no interest in it except the said direction and government; that under the orders of 1769 and 1770, regarding the seizure of the temporalities of the Jesuits, it was decreed "that no change should be made in the colleges, or the secular houses, whose direction and the instruction therein were in their charge; that the governor and the archbishop had exceeded their authority in erecting a new collegiate seminary in the College of San José," and as the College of San José had nothing in common with the expelled priests through their only having had its administration and direction, and this having ended with the expulsion, the said governor ought to have appointed an ecclesiast of good standing as rector and administrator from those who had been students in the same college, as being already instructed in its management, with these instructions, to give an account every year without permitting the archbishop to meddle in anything pertaining to the college, "as it is under my royal protection and therefore totally independent of the ecclesiastical ordinary, as are the other *obras pias* spoken of by the tridentine."

The King accordingly ordered that all things be placed in the college in the same state and condition in which they were before the change took place.

At the commencement of the year 1777 the governor appointed as rector and administrator of the College Don Ignacio de Salazar, Canonical of the Metropolitan Cathedral, who in that year took charge of the property of the College of San José, and from that time down to 1879, the position of rector-administrator of the College of San José was always intrusted, by appointment of the governor-general, to an ecclesiastic of the cathedral, with the duty of reporting the accounts of his administration every three years. The management of the college was not successful and the administration of its properties was negligent, and possibly in some of its years corrupt. The field of secondary education which it had attempted to fill came to be occupied by newer and more successful institutions, such as the Municipal Atheneum and the College of San Juan de Letran.

Between the years 1860 and 1870, the question of the conversion of the College of St. Joseph into a professional school of some character, of arts, agriculture, or medicine, was much discussed, particularly its conversion into a school of medicine and pharmacy. Finally, in 1867, a board consisting of the rectors of the university, Municipal Atheneum, and College of St. Joseph, and one representative each of the professions of medicine and pharmacy, was convened by royal order and charged with the duty of ascertaining the origin and object of St. Joseph's College, its revenues and pious charges, and the best

manner of installing therein classes of medicine and pharmacy. Its condensed finding is thus reported:

*Result:* That there only appears the strict obligation of supporting three scholarships with the estate of Tunasan, and one more when the "Mesa de Misericordia" (Table of Mercy) may guarantee its expenses. As to the studies nothing is said of what kind of faculty they shall be—it is only set forth that sons of well-born Spaniards shall be educated in virtue and letters.

Morales de Setien, rector-administrator in 1869, in submitting his report of that year, reaches the same conclusion. He refers to the fact that at that time Manila was provided with five colleges dedicated to secondary instruction, and points to the great advantages which would result if one of these colleges could be devoted to teaching something more adapted to the conditions of the country and the wants of its inhabitants. The rector of the University of St. Thomas also expressed the opinion that the diversion of the greater part of the college's funds to the maintenance of classes of medicine and pharmacy was within the provisions of that clause of the will of the founder, declaring that "if the said funds, after paying the board of said boys and the clothing of those who are poor, should show a surplus, the said patron may dispose of the same as he thinks right for said college or the company, or in other pious works, as he may deem best, without being called to account at any time for any cause or reason whatever."

In short, it was argued that the specific intention of the founder had failed, and that his general intention in favor of educational charity should be effectuated by the government through a cypres application of the funds, or, as the canonical phrase is, by commutation.

In 1870 the Spanish Government adopted the famous decrees concerning education in the Philippine Islands known as the Moret Decrees, by which it was attempted to secularize most of the institutions of learning. Among other provisions in these decrees, was one directing that the College of San José, the College of San Juan de Letran, the Ateneo Municipal should be united in one academy for secondary and entirely secular education, to be known as the Philippine Institute, to be subject to the ultimate control of a superior board of education, which was civil and secular in its character. These decrees were never enforced. They were successfully resisted by those in control of the College of San José and the others as an arbitrary and unjust despoliation.

In 1875, upon the accession to the throne of King Alfonso, new decrees were made by which the University of St. Thomas was reorganized, though the control of it by the Dominican order was not disturbed, and the College of San José was in a sense incorporated into the university. The history of this is found in Colonel Crowder's report, as follows:

The incorporation of the College of St. Joseph into the university and the application of its revenue to the maintenance of the university classes of medicine and pharmacy were accomplished by articles 2 and 12 of this decree of 1875, the former prescribing that "in this university shall be given the necessary studies for the following professions: Jurisprudence, canons, medicine, pharmacy, and notary," and the latter that "the branches of medicine and pharmacy, although constituting an integral part of the university, will be taught in the College of St. Joseph, whose revenues, with the deductions of the amounts for pious charges, will be devoted to the expenses of these branches. The five-sixths

part of the fees from the registration of these subjects and half of the fees for degrees, titles, and certificates of the alumni will also pertain to the college mentioned. The rest will be applied to the general expenses of the university."

These articles conferred a positive benefit and were immediately enforced. Other articles, the effect of which was to impair, to a degree, at least, the Dominican autonomy, were accorded a very different reception, and to these attention will now be invited. The first and most important of these latter articles is article 14, which reads as follows:

"The vice-royal patron, upon the recommendation of the rector, shall name a director for the College of St. Joseph, confiding to him also the administration of its revenues. In lieu of this functionary the senior professor of the branch of medicine will perform the duties of director-administrator."

The rector's first action under this article was the recommendation of Dr. Manuel Clemente, director-administrator of the college, who was appointed by the governor-general. But in 1876-77 there resulted a large deficit in the revenues of the college, and a royal order, dated June 5, 1877, was issued by the minister of colonies recommending a more careful management of the college funds.

When the governor-general received said royal order he convened a commission, and charged it with studying and making recommendations as to the proper way of maintaining the faculties of medicine and pharmacy with the funds of the college alone if possible. This commission condemned the administration of Clemente as unfit and abandoned, and in its report of September 5, 1877, recommended that the rectorate of the university should immediately take charge of the estates, valuables, and all properties and documents of St. Joseph's College; and that regulations for the management of the same be extended. As a result, the governor-general, on September 28, 1877, decreed that an administrative commission, composed of the rector of the university and the professor of pharmacy, Fernando Benitez, should take charge of the college, conferring upon them the powers necessary to carry out the complete reorganization of St. Joseph's College, such as was provided in the royal order of 1875. This commission commenced its work in October, 1877, and on July 26, 1878, submitted its report, in which it recommended that the office of director-administrator should be made two separate offices, the office of director to be filled by the rector of the university, to be rated *ex officio* director of St. Joseph's, and that of administrator to be filled by the governor-general upon the recommendation of the rector of the university of three names to be taken from the professors of medicine and pharmacy. This report was approved by the governor-general in his decree of August 1, 1878, in which he directed that the immediate direction and government of the college should be hereafter under the charge of the rector of the university, and that the administration of said college should continue in the hands of Don Fernando Benitez, professor of pharmacy. This decree of the governor-general was subsequently approved by royal order of March 24, 1880, with the modification that Benitez, in his post of administrator, should be removable, and that his successors should be named by the governor-general upon the recommendation of the rector of the university of three names, the appointee being always a professor of one of the branches of medicine or pharmacy. By the governor-general's decree of August 1, 1878, the rector was charged with preparing regulations concerning the control and management of the college. It appears that such regulations were issued by the governor-general on October 15, 1879; that title 2 of said regulations gives to the rector of the university, as *ex officio* director, the control of the properties and finances of the college.

It has thus happened that article 14 of the decree of 1875, which, although it did not direct, certainly permitted the control and management of St. Joseph's College to be given into the hands of a layman, has been in effect abrogated by subsequent orders of the governor-general, approved at Madrid, which place the management and control of the finances in the rector of the university.

Articles 6 to 10 of the decree of 1875 have shared a similar fate. There has never been a competitive examination held either here or at Madrid for vacant professorships, and these have been filled by the governor-general upon the recommendation of the rector. Regulations to carry the decree of 1875 into effect, which were to have been published and remitted to the minister of foreign colonies with all urgency, have not yet been published, although the rector claims that a draft of such regulations was prepared and forwarded in 1876, and a second draft in 1890. \* \* \*

The administration of the college properties is separate from that of the university properties. Two accounts are kept, each with its own funds and dis-



tinct administration, but both under the same direction, to wit, that of the rector of the university. \* \* \* On the whole it seems that the effects of the decree of 1875 upon St. Joseph's College were radical in the extreme when we consider the independence it enjoyed in its earlier history. Its scholarships, which prior to 1870 had been maintained at twenty, were, shortly after this decree went into effect, reduced to three and transferred to another institution. The instruction formerly given within its walls in "virtue and letters," in accordance with alleged requirements of its foundation, gave way, under that decree, to professional education in medicine and pharmacy. Its revenues, deducting the insignificant portion necessary to maintain three scholarships and a few other pious charges, were devoted to the maintenance of the faculties of medicine and pharmacy. But the administration of the college properties was kept distinct; the separate autonomy in this regard remains unimpaired.

The income from the property in normal times seems to be about \$20,000 gold and to indicate a foundation of about \$500,000 gold.

#### ARGUMENTS.

In the opening arguments for the complainant the ground was taken based on the history of the college as recited by one ecclesiastical writer, that the college was founded by the royal decree of 1585 and that \$1,000 a year was devoted from the royal treasury to its support, that the gift of Figueroa was merely in support of the royal foundation, and that contributions were made by the government of the islands from time to time to aid the college as a royal college. It was said that such a college was wholly free from ecclesiastical control if the King desired to make it so and that he had shown his desire to do so in the establishment of it as a secular college of medicine and pharmacy without any instruction in morals or religion.

The contention on behalf of the complainant that the college was originally of royal foundation by grant of 1,000 pesos annually was denied by the prelates appearing for the church, and in the reply of the complainant's counsel the commission understood this contention not to be insisted on. We come, therefore, to the argument for the church, because the issues really presented for decision are more sharply drawn by the argument for the church and the reply of counsel for the complainant.

The argument on behalf of the church begins with the premise that all ecclesiastical pious works as defined by canonical writers and laws are subject to the ultimate control of the church; that the method of administering such works was fixed by the decrees of the council of Trent, and that by decree of Philip II the canonical law formulated and declared by this great church council has always been recognized as binding in the Kingdom of Spain; that under such decrees there were two ways in which pious ecclesiastical works were administered by the church, one through the control of visitatorial power of the ordinary or bishop of the church and the other through the King; that pious works administered through the King were not subject to the control or visits of the bishop except by license of the King, but that in controlling such works the King was acting merely as the delegated agent or trustee of the church.

In support of the claim that the foundation of the College of San José was a pious ecclesiastical work within the operation of the decrees of the Council of Trent, references are made to the definitions of such works by writers on the canon law in describing the property

devoted to them as a class of church patrimony. The authors cited describe as church patrimony all property destined to succor the poor and needy, including in its category hospitals, asylums, colleges for the education and training of Christians, religious confraternities, and in general institutions and foundations to works of charity and religion, and say that two things are necessary and sufficient in order that the institutions and foundations be ecclesiastical and that their properties pertain to the church; that is to say, that they are by full force of right pious ecclesiastical works: First, that they be founded with the license and authority of the diocesan bishop, and second, that the foundations of the said institutions have been made through motives of charity or religion, or what is equivalent, that they have been made with the idea of promoting holy religion and providing for some moral and material necessity of the founder's fellow-creatures within the church. The argument distinguishes such foundations from those which in modern states are not ecclesiastical institutions because their founders were not influenced in their action by motives of religion or Christian charity, nor did they found them in the exercise of Christian charity, but simply through sentiments of philanthropy and as acts of social beneficence, with the unmistakable absence of all Christian influence or intention. Attention is called to the bull of Pope Alexander VI in 1501, by which the titles and first fruits of the Indies, with the duty of propagating the faith and endowing the churches and appointing ecclesiastical ministers therein and fully to maintain them, were granted to the Kings of Spain; and to that of Pope Julius in 1508, by which the universal patronage, to wit, that of nominating proper persons for churches, cathedrals, monasteries, dignities, colleges, and other ecclesiastical benefices and pious places, was granted to the King of Spain; and to the concordat of 1851 between the Pope and King of Spain, by which it was agreed that the church should have the right of acquisition by any legitimate title whatever, and its proprietorship in all that it possesses in the present or should acquire in the future should be respected, and that no suppression or fusion should take place without the intervention of the authority of the Holy See; and to the covenant of 1860 between the same parties, by which the Spanish Government recognized anew, in a formal manner, the full and free right of the church to acquire, hold, and enjoy the usufruct in ownership without limitation or reserve of all kinds of property or values, and consequently annulled by this covenant whatever previous covenant might be contrary to it, stipulating that the property which in virtue of this right should be acquired and possessed in future by the church should not be counted in the endowment which had been previously assigned to it by the concordat.

Upon these premises the argument on behalf of the church proceeds to point out that the foundation of Figueroa fulfilled one of the two requirements of a pious ecclesiastical work, in that it was a gift by a professing Catholic for the education of Catholics under the administration of a Catholic order, which could do nothing except with permission of the head of the church, in letters and morals—morals which it is conceded by counsel for complainants were Catholic morals—and therefore that the foundation was made through motives of charity and religion, to promote holy religion and provide some moral need to the founder's fellow-creatures within the church; that the

founder's intention to make his gift a pious ecclesiastical work could be clearly seen in the will itself, in which he authorizes the patron to devote a surplus of funds to any other pious works, thereby emphatically implying that he regarded the main foundation as pious work. Reference is also made to the construction placed upon the purpose of the founder in the royal licenses to permit the transmission of funds of the trust from Mexico to the Philippines, and in the decree taking the college under royal protection, by which the foundation is said to be for education of the youth of Manila, in theology among other things, and the preparation of young men as ministers of the holy religion. It is then contended that the other requirement of the definition of a pious ecclesiastical work, to wit, that it be founded with the license and authority of the diocesan bishop when fulfilled as to the College of San José, because, before the Jesuits founded their college in 1601, they obtained a license from the representative of the Archbishop of Manila to do so, and in 1610, after the college had become the foundation of Figueroa under his will, the permission originally given in 1601 was confirmed to administer the college under that foundation, and permission was given to say masses in the school.

The right of the King to take the college under his protection in 1722, and to provide an administrator for the college in 1768, is attributed to the argument for the church to the control given to the King of Spain over church property and tithes and first fruits by the bull of Pope Alexander VI in 1501, and to the still wider power of universal patronage given the same monarch by the bull of Pope Julius II in 1508, and it is said that the King was merely acting as the pope-appointed royal patron of the college in providing administration for the college after the private patron became incapable under the pragmatic sanction, and that the King recognized the ecclesiastical character of the foundation in selecting a priest as administrator.

The argument that the Crown of Spain asserted an absolute right to control the purpose of the college free from the church by the decrees of 1870 and 1875 is met by the contention that the decree of 1870 was never enforced, and that of 1875 was only executed so far as to make the college a part of the sectarian and church-managed University of Saint Thomas, in which the Catholic religion was taught and the Dominican rector administered both trusts for the same purpose, to wit, the conduct of a university under the Catholic Church, and that the diversion of the funds of the College of San José to the various chairs of medicine and pharmacy embraced in such a university is quite in accord with the religious motives of the founder expressed in that clause of his will in which he authorized his patron, when the original purpose failed or was satisfied, to expend the income in other pious works; but that to use the funds for a medical school under civil and secular control, completely divorced from the church and association with a Catholic university, would be a complete departure from the terms of the will and a violation of the intentions of the testator.

Another argument made on behalf of the church rests upon the obligation of the Government of the United States to observe as sacred contract rights created and secured by the granting and acceptance of a charter of the sovereign. It is said that the College of San José, by what was done, was created and became a body corporate,

and that the instruments which made up the charter for its existence, including the will and its recognition by royal decree and license, prescribed a clear and well-defined government for the college by the head of a religious order, and that any attempt to take the college out of ecclesiastical control would be a breach of the contract rights acquired by those for whose benefit the trust was to be administered from the civil sovereign, whose obligations in this regard passed to the United States. Much reliance was put on the decision by the Supreme Court of the United States in the well-known case of *Woodward v. Dartmouth College*, in which it was held not to be competent for the legislature of New Hampshire to change by legislative act the mode of choosing the trustees of Dartmouth College and their number, as prescribed in a royal charter of the King of England granted before the separation of the United States from the mother country, because the accepted charter was a contract which it was forbidden by the Constitution of the United States to a State to impair by legislative act.

The argument for the complainant in reply, assuming, as contended for the church, that the real beginning of the College of San José as a corporate entity and a work of charity began with the vesting of the gift under the will of Figueroa, and that the events occurring between 1601 and 1608 did not change or affect the light in which the college should be viewed, and accepting for the sake of the argument the definition of a pious ecclesiastical work given in the argument for the church, was that the foundation of Figueroa fell short of both requirements stated, in that it was a mere act of philanthropy and secular charity and was not intended to be a provision for the aid of the holy Catholic religion or to be under the control of the church as an ecclesiastical pious work; that the delegation of the power of control and patronage to the head of the Order of Jesus was a mere description of the person of the administrator, and was not intended to put the control of the institution under its patron as a subordinate of the Holy See; that this was most manifest from the express declaration of the testator that no ecclesiastical authority should interfere in the management of the college and its properties, and that the words "other pious works," used in the will, could not, in view of this express exclusion of ecclesiastical authority from ultimate control, be construed to mean ecclesiastical pious works. The argument, as continued, was that Figueroa's foundation failed also to fulfill the second requirement of an ecclesiastical pious work, in that it was not licensed by the diocesan authority as such. It was said that license of the vicar-general of the diocese of 1601 was merely personal permission to the provincial of the Jesuits as a priest to conduct a college and to celebrate masses, and was not a license of an ecclesiastical pious work, for, as conceded in the argument for the church, the college of the Jesuits in 1601 was not an ecclesiastical pious work, for it lacked the substance of a foundation and the permanence involved in the obligation to continue the college forever. After the foundation by Figueroa it was argued there was no diocesan license or authority for the foundation, that the confirmation of the license of 1601 by a diocesan order of 1610 was a mere repetition of the personal license of 1601 to the provincial of the order to do that which without the permission of the bishop he could not as a member of his order do. The contention further was that as this was a mere private

charity for public benefit, the application to the King of Spain for his protection and for the right to be known as a royal college put it under the control of that monarch in the exercise of his royal prerogative as a sovereign, subject only to the exercise by the provincial of the Order of Jesus of his power as patron, and free from any interference by the Church of Rome. The expulsion of the Jesuits, it is said, deprived the trust of the trustee appointed in the will and placed the burden of providing a trustee upon the sovereignty, who had become the protector of the college and who was by general law the *parens patriæ* and authorized to provide trustees for trusts of this character where the person named in the deed or instrument of foundation to execute the trust had become incapable of continuing to execute it. Continuing the argument, it was said that the rescript of the King in which he censured the Archbishop of Manila and the governor of the islands for despoiling the properties of the College of San José and directed that it be returned to its former status under the will of Figueroa, the administrator to be appointed by the governor, was an assertion by the King of Spain carried into execution of his right in the exercise of his royal prerogative to control the management of the college independently of the archbishop or of the Catholic Church. It was said that the direction to the governor to appoint some ecclesiastic to control the college was not an admission by the King of his obligation to appoint a religious person to the control of the college, but only a conformity to the custom then universal of committing educational institutions to the control of members of the clerical profession, who were almost the only persons then capable of teaching, and that there is in the rescript itself an assertion of the right of the King to appoint a secular person, should such a person be suitable. This argument is enforced by reference to the action of the King in the decree of 1875, by which it was held, apparently with the consent of the ecclesiastical persons who were therein concerned, that the King had authority, by royal order, in view of the fact that the purpose of the founder of the college in furnishing a school for secondary education in morals and letters had become impossible, or rather profitless, because there were other schools which much better discharged these functions in Manila, to change by decree the purpose to which the funds should be devoted and allow them to be used for the conduct and maintenance of a professional school for the education of physicians and pharmacists. It is urged that the secular and nonsectarian character of the education in which the funds were thus devoted by order of the King is the strongest indication: First, that the original donation was regarded by those then in authority not as a religious and ecclesiastical charity, but only as a philanthropic one; and second, that the effect of the decrees was a final decision that the King might, in the exercise of prerogative, without consulting the head of the Church of Rome or any of his ministers, treat the foundation as one completely within his civil control. The argument for the church that all that the King of Spain did or attempted to do in the control of the college was because of his authority as patron of the college under the Papal bull conceding universal patronage in the Indies was met by the contention that ecclesiastical patronage was only the power of presenting a candidate for ecclesiastical benefices or for offices in a religious college, and did not include any control over the ecclesiastical trust

funds or the right to call the official incumbents to an account, and did not embrace the right to change the purposes for which the funds should be used; that powers of this kind could only be exercised by the King as a civil sovereign and *parens patriæ*.

In reply to the argument for the church based on charter contract rights and principles laid down in the Dartmouth College case, the answer is made that they have no application to the controversy before us, for the reason: First, that it is difficult to find anything in the facts here analogous to the charter in that case, and even if the will could be so regarded, the provision that the college should be managed by the Jesuit provincial had become impossible of execution, for the reason that the person described had become incapable and the purpose profitless and impracticable. Reference is made to the decision of the Supreme Court of the United States in the Mormon Church case (136 U. S.), in which it was held that where a trust failed because of impossibility of execution the United States, as sovereign, had power as *parens patriæ* to supply a trustee and to order the application of the trust funds to a purpose analogous to that originally fixed in the deed of gift or charter.

Accordingly, here it was urged that as the status of the college at the time of the treaty of Paris was that of a foundation under the civil control of the sovereign of Spain as *parens patriæ*, the United States in the same capacity had the power to make any suitable provision for the conduct of the college as a school of medicine under any directory it might see fit, and the only suitable directory in a government in which the church was separate from the state was one free from ecclesiastic or monastic influence.

#### OPINION.

We have thus stated the arguments *pro* and *con* in this case as fairly as we could, condensing much and possibly in some instances suggesting additional arguments on each side which do not appear in the briefs. We are now to state our conclusions:

The treaty of Paris between Spain and the United States, by which these islands were ceded to the latter Government, provides in article 8, section 2:

That the relinquishment or cession, as the case may be, can not in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civil bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories, renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

The same obligation would rest upon this Commission and the military government under the instructions of the President for the guidance of the Commission, and the question which must be decided finally to settle this controversy is: What was the status of the property and foundation of the College of San José at the time of the ratification of the treaty of Paris, by which the sovereignty over these islands was transferred from Spain to the United States, and under which the public property situate in these islands and the public civil trusts of the Government and Crown of Spain to be performed here were transferred to the Government of the United States?

It is conceivable that between the Crown of Spain and the head of the Roman Catholic Church there might have been a controversy as to the right of control and management by the Crown over certain property within the territorial jurisdiction of the Kingdom; but if the views of the Crown had been carried into effect by the usual methods of settling rights according to the laws and customs of the existing sovereignty, and possession and control finally established thereby, it would seem that, so far as the United States is concerned, the controversy must be deemed to have been finally settled and not capable of being reopened under the new sovereignty, at least where sufficient time has elapsed to constitute the usual period of prescription. For instance, it could hardly be maintained that the pragmatic sanction, under which the properties of the Jesuit order in 1768 were confiscated and became the property of the Crown of Spain, could now be set aside on the ground that this was an arbitrary act and deprived the order of its property without due process of law. In other words, in a discussion like this, we must have a starting point, and that is the status of the property as settled by the lawful civil decrees of the government whose sovereignty is transferred by the treaty of cession.

It is difficult to escape the inference drawn by Lieutenant-Colonel Crowder from the decrees of 1870 that the Government of Spain then supposed it had the right to secularize the College of San José, but it is also true, as pointed out by the same gentleman in his very learned and able report on the subject, that the parts of the decree which implied this power were not enforced and were frustrated by the resistance of the ecclesiastical authorities in these islands; and the same is to be said of the decrees of 1875 and later years, except so far as it could be said to be a secularization of the properties and foundation of the college to make it a subordinate branch for the teaching of secular subjects in a university conducted by the Dominican order of monks under the ultimate authority of the Pope.

It is apparent from the arguments stated above that among the questions which will probably be of importance in the decision of the issue of this case is whether under the canon law the foundation here made in the will of Figueroa was an ecclesiastical pious work subject to the ultimate control of the Church of Rome; another is, whether the power exercised by the King over colleges under his protection to control them without the intervention of the archbishop was necessarily dependent upon the papal grant or was exercised by the Crown as its own without regard to the church. Another question not much mooted in the discussion before the Commission would probably come up for decision on this issue; and that is, whether the right of universal patronage of the Indies exercised by the Crown of Spain over such an institution as the College of San José finds its source in the bulls of the Pope in 1493, 1501, and 1508, which have already been referred to, or only finds recognition in those bulls of its existence, when in fact its real source was the right of discovery and sovereignty. This issue is one which has been the subject of profound discussion by learned canonists on the one side, upholding the view that the source of it was entirely ecclesiastical and papal, while on the other the contention of certain civilians, notably the fiscal of the royal audiencia of Cuba, D. Eduardo Alonzo y Colmenares, is that the principal and preeminent titles on which

the Kings of Spain base the universal patronage of the Indies are those of discovery and conquest of the dominion and the foundation and endowment of the institution in question; and that the bulls are mere recognitions of a title already established. Another is whether, even if the United States may act as *parens patriæ*, its provision for a trustee and a purpose analogous to that of the founder should not be limited to that of a trustee who is a priest of the same church as the founder and a purpose nearer to the aims of the Catholic Church than a merely secular professional school.

And doubtless other difficult questions not now considered may arise in a final argument of the case. In other words, in order to decide the merits of this case, we should probably have to consider and settle a nice question of canonical law, and investigate and discuss the historical and legal relations of the Crown of Spain to the head of the Catholic Church. Neither of these questions do we feel competent now to decide with the materials which are before us and with the time at our disposal, nor do we need to do so. We are not a court. We are only a legislative body. It is our expressly delegated function in just such cases as this to provide a means for the peaceful and just decision of the issues arising. Had we been able to decide clearly and emphatically that the petitioners had no rights here and that their claims were so flimsy as not to merit the assistance of the legislature in bringing them to adjudication in a court of justice, we might have properly dismissed the petition and taken no action thereon; but we are of opinion, all of us, that the contentions of the petitioners present serious and difficult questions of law, sufficiently doubtful to require that they should be decided by a learned and impartial court of competent jurisdiction, and that it is our duty to make legislative provision for testing the question. If it be true that the United States is either itself the trustee to administer these funds, or occupies the relation of *parens patriæ* to them, it becomes its duty to provide for their administration by a proper directory, whose first function will be to assert, in the name and authority of the United States, their right to administer the funds of the college against the adverse claims of the person now in charge, who claims to hold under and by virtue of the control over the funds by the Catholic Church; and this legislative action we now propose to take, not thereby intimating an opinion upon the merits of the case, but merely by this means setting in motion the proper machinery for the ultimate decision by a competent tribunal.

The military government, of which we are the legislature, is a provisional government; but for all this, pending its existence, it has the power to provide for the conservation of public property and the temporary carrying on of trusts with respect to which the sovereign is charged with any duty.

The only tribunal which we can provide for deciding this cause is a tribunal over which, by the instructions of the President, we must exercise the power of appointment. Lest, therefore, any opinion which we might intimate should be used by either side in the case to be argued and decided as authority in that tribunal, we have been careful to express no other definitive opinion than that the petitioners have presented a case of sufficient dignity and seriousness to warrant its full consideration by a court of justice. We think, moreover,



as the United States occupies the relation of general trustee toward the public of the Philippines, in whose behalf the cause is here pressed, that it is not stepping beyond the bounds of impartiality for the commission to devote from the public funds a reasonable sum for the payment of the costs and expenses of the conduct of this litigation by the complainant and those whom he represents. He claims to represent the general public, and, should his petition be granted and his case made, certainly the fund will be administered for the benefit of the general public. In the disturbed condition of the country, when private contributions are difficult to secure, when four years of war have made practically impossible donations for such a purpose sufficient to meet its requirements, it is right that from the public funds provision be made. We think the sum of \$5,000 in money of the United States is sufficient for this purpose, and we shall appropriate this amount accordingly to pay the expenses of getting the evidence, preparing the record, printing the briefs, and as fees for professional services. The fund will be enough in view of the provision which we expect to make that the petitioners may call upon the Attorney-General to assist in the prosecution of the case.

It is important that the issue be decided as soon as the proper consideration of so important a question in the due course of justice can be given to it by a competent tribunal. As the United States is practically a party to the litigation, we do not think it necessary to have resort to the ordinary tribunals of first instance. The case is of such signal importance that it may very well be heard by the Supreme Court originally, and we shall provide in the act authorizing the bringing of the suit the procedure to be followed, so as to secure an early hearing on the merits.

The procedure briefly stated will be as follows:

The trustees whom we shall appoint will file their declaration or petition in the Supreme Court, setting forth the legislation under which they act and their appointment, describing the properties of the College of San José, stating in a summary manner the history of the college under which they assert the power of the United States to provide control of the property, and praying a decree of the court directing the surrender by the rector of the University of Santo Tomas, in charge of the properties of the College of San José, to the petitioners. To the petition should be made parties, not only the rector of the university who has charge of the properties, but also the Archbishop of Manila or the Episcopal administrator of the diocese, the Apostolic delegate, as the representative of the Catholic Church, claiming an interest in the property. A summons shall then issue in the usual form, accompanied by a copy of the petition, and shall be served upon the rector of the university and the archbishop, and a return of said summons shall be made by the officer authorized by the court to serve the same within two weeks after it shall issue. The summons shall require that the parties defendant shall answer the petition within thirty days from the day fixed for the return of the service. Upon the filing of the answer in the supreme court, the petitioners shall have two weeks thereafter to file a reply to new matters set up in the answer by way of defense. New matters set up by way of reply shall be taken as denied without further pleading. After the cause shall be thus at issue and the evidence taken, the

supreme court shall give precedence to the hearing of the same and shall set it for as early a date as possible consistent with the proper preparation of the arguments by the opposing parties. Should the court upon final hearing decide that the case of the petitioners is not made out upon law and the evidence, it shall dismiss the petition and award cost against the petitioners. Should the court, on the other hand, decide that the case of the petitioners is made out and that the trustees appointed by this commission are entitled to have possession and control of the foundation and properties of the College of San José and that the Catholic Church, either through the rector of the university or through the archbishop, has no interest or right of control in said property for the purpose of carrying on a school of medicine and pharmacy, the court shall enter a decree finding the right of control and management to be in the trustees and directing the dispossession of the rector of the university of the properties of the College of San José, and decreeing an accounting against him of the rents and profits of the college during his incumbency as administrator of the College of San José which have not been expended in conducting the college or preserving its properties, allowing, however, a credit in such accounting of a reasonable sum for counsel fees and the expenses for the litigation by him incurred. The costs of the case shall not include the counsel fees on either side.

It is not at all unlikely that before the Congress which was elected in November last and which will meet in December next shall finally adjourn it will conclude to confer upon the Supreme Court of the United States jurisdiction to consider appeals from the supreme court of these islands. The present case, involving a construction of the Treaty of Paris and the effect upon public trusts of a transfer of sovereignty from a kingdom in which church and state were united, and one might almost say inextricably fused, to one in which church and state are kept entirely separate, is of such importance as to make most appropriate the submission of the issue to a court of the dignity, learning, ability, and commanding jurisdiction of the Supreme Court of the United States. This commission has no power to confer such jurisdiction upon that court, but it may make a legislative provision which shall prevent the decision of the supreme court of these islands from being so final in its character as to make it impossible for the Congress of the United States, after its rendition, to provide an appeal to the United States Supreme Court. The law to be passed will, therefore, enact that upon the entering of the decree by the supreme court of the islands it shall be immediately carried into effect. If against the petitioner, the petition shall be dismissed and the costs awarded collected; if against the defendants, and in favor of the petitioners, the decree shall be executed by a change of possession and control of the college and an accounting; but the decree shall not become final so as to prevent an appeal, by virtue of a provision of the Congress of the United States, to the Supreme Court of the United States, or some other tribunal, until the 4th of March, 1903.

There remains to be considered the question involved in the petition to the governor to rescind the order of General Otis suspending the conduct of the college under the rector of the University of St. Thomas. In view of the conclusion which we have reached that there

is much to be said on the merits by both parties, it is clear to a demonstration that there is no reason for disturbing or interfering with the possessions of the party whose control and ownership is disputed until final decree. Without considering the wisdom or propriety of the order of General Otis, in view of the military necessity which was then said to be urgent, we are very clear that no such military necessity now exists. There is no evidence before us that the rector of the university and others in control of the funds and property are wasting them, and no reason has been shown for the appointment of a receiver. The administration of the property by those selected by the Spanish Government may certainly continue for the short time pending the hearing of the case without serious detriment to anyone concerned. The arbitrary operation of an injunctive order made without a judicial hearing should be avoided if possible, especially where the issue is a doubtful one, and where judges and lawyers may conscientiously differ. Whether the professional education afforded under the management of those who are now in possession of the properties of the college is as advanced as it should be, or not, it is certainly better that the properties should be used for an educational purpose than that they should lie idle. We shall recommend to the military governor that the injunctive order against the opening of the College of San José by the rector of the university be rescinded.

Before closing, we must fix the number and state the names of the persons to act as trustees to conduct the litigation now about to be begun and to take charge of the college and its estates should the decision and decree of the court be in their favor. The first trustee will be the gentleman who thus far has borne the burden of the contest for those whom he represents, Dr. T. H. Pardo de Tavera. By appointing him or any other trustee who has manifested a zeal in the cause of the complainant we only do so in order that the question shall be energetically pushed to a settlement, and not thereby to indicate that the trustees represent our views on the issue. As the trustees, in a sense, will be asserting the validity of the exercise of power of the Government of the United States, it seems appropriate to make trustee Dr. Charles R. Greenleaf, colonel and chief surgeon, Division of the Philippines, in the United States Army. The third trustee will be Mr. Leon M. Guerrero; the fourth trustee, Manuel Gomez Martinez, M. D., and the fifth Frank S. Bourns, M. D.

There has been much popular and political interest in the controversy in which we have now stated our conclusions. The questions considered, however, have not had any political color at all. They have been purely questions of law and proper legal procedure, and so will they be in the court to which they are now sent. The decision of the right to control San José College can not legitimately be affected by the political feeling which one may have for or against the friars. It is unfortunate that the public should clothe the settlement of an issue purely legal with political significance when it ought not to have and does not have one. But, however this may be, those charged with settling it can pursue only one path, and that is the path of legal right as they see it.

The secretary will now read the bill, which has passed two readings of the commission and which now comes up for a third reading and passage:

AN ACT providing a board of trustees to conduct the College of San José as a school of medicine and pharmacy, to bring an action against the persons now in possession of the property of the college, vesting the supreme court with jurisdiction to determine the controversy, and appropriating five thousand dollars to pay the expenses of the litigation.

*By authority of the President of the United States, be it enacted by the United States Philippine Commission that—*

SECTION 1. T. H. Pardo de Tavera, M. D., Charles R. Greenleaf, M. D., colonel and chief surgeon of the Division of the Philippines in the United States Army, Leon M. Guerrero, Manuel Gomez Martinez, M. D., and Frank S. Bourns, M. D., are hereby constituted a board of trustees to take possession of and manage the property and estates of the College of San José of the city of Manila, to maintain and conduct in the buildings of said college a school of medicine and pharmacy for the benefit of the qualified members of the public of the Philippine Islands, with power to determine the number of professorial chairs to be established, the number of instructors and demonstrators needed, to appoint professors constituting the faculty, to appoint the necessary instructors and demonstrators and other accessory officers and employes, to fix the curriculum, to fix reasonable tuition and other fees to be collected from the students, to determine the period of study necessary for the conferring of the degrees of doctor of medicine and doctor of pharmacy, and to take any other steps needed in the creation and maintenance of an efficient school of medicine and pharmacy for the Philippine people.

Sec. 2. The board hereby constituted shall organize within fourteen days after the passage of this act, shall elect a president and a secretary from its own members, and shall keep minutes of its proceedings.

Sec. 3. Whereas there is now in possession of the property and assets of the College of San José a person who is the rector of the University of Santo Tomás, a member of the Dominican Order, claiming to be in possession by virtue of the ultimate ownership and right of control of said property and estates by the Roman Catholic Church and denying the power of the United States Government either to assume control of said property or to make provision for the administration of the same, as in section one of this act, the board hereby constituted is required, in the discharge of its duties, first, to assert its claim to discharge its duties as imposed by this act in the due and ordinary legal procedure hereinafter set forth, and to take no steps to secure physical possession of the properties and estates of the College of San José until the issue between them and the rector of the University of Santo Tomás and the representatives of the Catholic Church shall have been duly decided by the court of competent jurisdiction as hereinafter prescribed.

Sec. 4. Within thirty days after the passage hereof the board herein constituted shall file its petition in the supreme court of the islands, setting forth the appointment of the board under this act, its powers and duties hereunder, its claim of right to the possession of the properties and estates of the College of San José for the purpose of discharging such duties, the fact that under a claim of right the property is held by the rector of the University of Santo Tomás, representing the ultimate control of the Roman Catholic Church, setting forth succinctly the history of the college and a statement of the facts upon which the right of the United States to provide for the administration of the college is asserted, and praying that the court shall enter a decree ousting the rector of the University of Santo Tomás, or any other minister or representative of the Roman Catholic Church from possession of the properties and estates of said college, and placing the petitioners in possession thereof so as to enable them to discharge the duties imposed upon them by this act. The petition shall make party defendant thereto, not only the rector of the University of Santo Tomás, but also the archbishop of Manila or the archbishop of New Orleans, Apostolic Delegate, who in the absence of the archbishop of Manila from the Philippine Islands is the Episcopal administrator of the archiepiscopal province and of the bishopric of Manila, and shall require said archbishop as the representative of the Roman Catholic Church to set up its claim of ownership and right to control the properties and estates of the College of San José. Upon the filing of the petition a summons shall issue in the usual form against the rector of the University of Santo Tomás and the archbishop of Manila or the Episcopal administrator thereof, accompanied by a certified copy of the petition. A return of the service of such summons and copy upon the parties defendants shall be made within fifteen days after the issuing of the summons by an officer duly authorized to make the service. Within thirty days after the day fixed for the

return of service, the defendants shall file their several answers or a joint answer, as they may elect, stating the facts upon which they deny the right and power of the United States to provide for the administration of said college and its estates and praying a dismissal of the petition at the costs of the petitioners. Within fifteen days after the filing of the answer or answers the petitioners shall have the right to file a reply to any new facts set up in the answer. New averments of the reply shall be considered as denied by the defendants. The cause shall then be at issue and no further pleadings shall be filed. After the cause shall be at issue, the petitioners shall have thirty days in which to take evidence in support of the averments of their petition; the defendants shall have forty-five days in which to take evidence to sustain their answer or answers, and the petitioners fifteen days to take any necessary evidence in reply. The evidence shall be taken in a manner to be prescribed by the supreme court. Within seven days after the cause shall be at issue the parties shall appear before the supreme court and stipulate so far as possible what facts may be taken as agreed upon by all the parties in interest, so as to save the necessity for proof of the same by either party, and this stipulation shall be spread upon the records of the court. When the evidence shall have been submitted, the cause shall be given precedence in the supreme court, and shall be heard at as early a date as possible: *Provided, however*, That for good cause shown, the supreme court may in its discretion extend any of the periods hereinbefore fixed.

SEC. 5 The supreme court of the islands, including all its members, as it is now or may hereafter be constituted, is hereby given jurisdiction to hear the controversy above described and to follow the procedure above defined. After reaching a conclusion upon the issues made, it shall proceed to enter its decree. If it finds in favor of granting the prayer of the petition, it shall enter a decree ousting the defendants from possession of the properties and estates of the College of San José and awarding costs against the defendants, and requiring an accounting by the rector of the University of Santo Tomás of all moneys coming into his hands from such properties and estates, allowing him a credit for all money expended in the conduct of the college, the preservation of its properties and estates, and a credit for the reasonable expenses of defending the suit and costs awarded therein. Should the court find the issues in favor of the defendants, it shall enter a decree dismissing the petition and awarding costs against the petitioners. In no case shall the fees of attorneys, solicitors, or advocates of the successful party be included in the costs adjudged against the losing party.

SEC. 6. Upon the rendition of the decree by the supreme court in the suit hereinabove provided for, the decree shall be immediately executed. If the decree is for the petitioners, they shall be at once put in the possession of the properties and estates of the College of San José, without awaiting the result of the accounting in such case to be decreed, which shall then proceed in due course; if for the defendants, the petition shall be at once dismissed and an execution issue for the collection of the costs: *Provided, however*, That the decree entered shall not be so final in its character as to prevent the Congress of the United States on or before March 3, 1903, from making provision for an appeal from the decree entered by the supreme court under this act to the Supreme Court of the United States or any other court thereof.

SEC. 7. The sum of five thousand dollars (\$5,000) in money of the United States is hereby appropriated from any funds in the insular treasury not otherwise appropriated, to pay the costs and expenses of the board of trustees hereby appointed in the litigation herein provided for, including reasonable counsel fees. The money shall be disbursed by the disbursing officer of the commission upon the order of the board, after the money shall have been drawn out of the treasury upon the requisition of the disbursing officer in the manner provided by law. It shall be the duty of the attorney-general of the supreme court to appear as one of the counsel in support of the petition and he shall receive no additional compensation therefor.

SEC. 8. The trustees herein appointed shall hold office subject to the will of the commission. Should any vacancies exist or occur in the board by reason of nonacceptance of the appointment, resignation, or death, the same shall be filled by appointment by the commission.

SEC. 9. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 10. This act shall take effect on its passage.

Enacted January 5, 1901.

## OPINION OF THE ATTORNEY-GENERAL OF THE PHILIPPINE ISLANDS AS TO THE HOSPICIO DE SAN JOSE.

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### ST. JOSEPH ASYLUM—HISTORY OF FOUNDATION AND MANAGEMENT—PRESENT LEGAL STATUS.

The Asylum of St. Joseph was founded by virtue of a royal order dated December 27, 1806. The first funds of the asylum were derived from donations and bequests. A royal order, dated May 27, 1828, provided that the funds of the former battalion of Mestizos should be applied to said asylum. These funds being still insufficient, the governor of the islands, on June 25, 1829, decreed the levying, for the benefit of the asylum, of a tax of 1½ per cent on rice exported by foreigners or natives on foreign vessels or for foreign ports.

The superior board of finance, by resolution passed October 29, 1829, assigned to the St. Joseph Asylum, out of the funds of *Cajas de Comunidad* the sum of \$1,000 per annum. This resolution was approved by a royal order October 29, 1831.

On February 5, 1858, the governor-general issued a decree whereby \$15,000 were appropriated for said asylum.

On July 13, 1865, the governor-general decreed an increase of the annual assignment of \$15,000, received by the asylum, to \$25,000.

The management of the institution has always been in the hands of a managing board under the control of the governor-general. The control and management of the asylum was thus exercised by the Spanish Government until the termination of Spanish sovereignty, when the Archbishop of Manila assumed it. *Held:*

That the St. Joseph Asylum was founded by royal order of the Spanish Government and supported by government funds; that it was the property of that Government and is now the property of the United States Government in the Philippines by virtue of the treaty of Paris.

DEPARTMENT OF JUSTICE, *March 12, 1902.*

SIRS: As a result of the investigation made by this office in the matter of the Asylum of St. Joseph, I have the honor to submit herewith a historical narration of the foundation and subsequent transformations and changes of said institution until the termination of Spanish sovereignty in the islands.

This asylum was founded by virtue of a royal order of December 27, 1806, for the purpose of providing shelter and means of living for unfortunate people who, through sickness or other causes, were unable to work. The first funds of the asylum with which its expenses were met were derived from donations and bequests; these funds, by being invested in the business of drafts on America, were increased to such an extent that they exceeded the business of the establishment. On account of the emancipation of the Spanish-American colonies these transactions were discontinued, and the funds of the institution were thereby considerably diminished, so that it became necessary to reduce the number of its inmates and to lease a part of the building.

In view of this distressing situation a royal order, dated May 27, 1828, was issued, which provided that the funds of the former battalion of Mestizos should be applied to the use of the St. Joseph Asylum. The funds still being insufficient, the governor of the islands, on June 25, 1829, decreed the levying, for the benefit of the asylum, of a tax of  $1\frac{1}{2}$  per cent on rice exported by foreigners or natives on foreign vessels or for foreign ports. The superior board of finance, by a resolution passed October 29, 1829, assigned to the St. Joseph Asylum out of the funds of *Cajas de Comunidad* the sum of \$1,000 per annum. This resolution was approved by a royal order of October 29, 1831.

On February 5, 1858, in order to meet the expenses consequent upon the project for the improvement and enlargement of the institution, the governor-general of the islands, D. Fernando Norzagaray, issued a decree whereby \$15,000 from the *Caja Central de Arbitrios* remaining in the general treasury were appropriated for the St. Joseph Asylum. This decree was approved by a royal order of September 12, 1881.

Upon the motion of the same governor, the project which had existed for a long time for enlarging and improving the asylum was carried out and a new building was erected at the expense of the government.

On July 13, 1865, the governor-general decreed the increase to \$25,000 of the annual assignment of \$15,000 received by the asylum. This decree was ratified March 20, 1888, and approved by the Government of Spain by a royal order of December 17, 1889.

The management of the institution has always been in the hands of a managing board under the control of the governor-general. The chief justice of the supreme court was president ex officio of the board. According to the regulations, approved by a royal order of January 9, 1861, for the government of the institution, the management and control thereof is vested in a board composed of the governor-general, protector; the chief justice of the supreme court, president; two dignitaries of the Catholic Church, appointed by the protector upon the recommendation of the archbishop, of whom the senior, in office or in age, is vice-president; two members of the municipal council, appointed likewise by the protector upon the recommendation of the president of the council; and six gentlemen of good standing in the community and of pious feelings whom the protector may deem proper to appoint. By a royal order of October 6, 1892, it was provided that the presidency of the managing board of the asylum should be held by the provincial of one of the four religious orders established in the islands in place of the chief justice of the supreme court. By virtue of this order the provincial of the Order of St. Augustin was appointed president.

The regimen of the establishment is vested in a director appointed by the governor-general upon the recommendation of the managing board.

The control and management of the St. Joseph Asylum was thus exercised by the government until the termination of the Spanish sovereignty in the islands. Thereupon the Archbishop of Manila assumed control, and it was he who appointed the members of the present managing board as substitutes for those who held the position

formerly. He also appointed the present director of the establishment.

The present board is composed of the prior of the Order of St. Augustin, president; Don José Chouza, parochial priest of the walled city, vice-president; Don Trinidad Jurado, Doctor Doneland, Don Rafael Reyes, Don José de la Rosa, Don Julian la O, and Don Blás Alcuáz, members; Don Manuel Rincon, secretary; Don Emilio Borrero, director.

As a result of the investigation made, I am of the opinion that the St. Joseph Asylum, founded by a royal order of the Spanish Government and supported by government funds, was the property of the Spanish Government, and is now that of the United States Government in the Philippine Islands by virtue of the treaty of Paris. The right of the Government to control and manage the St. Joseph Asylum is therefore beyond question.

Very respectfully,

L. R. WILFLEY.

The UNITED STATES PHILIPPINE COMMISSION.



## OPINION OF THE ATTORNEY-GENERAL OF THE PHILIPPINE ISLANDS AS TO THE HOSPITAL OF SAN JUAN DE DIOS.

### HOSPITAL OF SAN JUAN DE DIOS—ADMINISTRATION.

In 1577 a Franciscan monk, Juan Clemente, obtained permission from the King of Spain to found a hospital, and solicited contributions from the public to carry out the project. It is not known how the institution came into possession of the land occupied by it. For the purpose of assisting the Franciscan Friars, who it seems were the administrators of the hospital, there was founded, about the year 1590, a society called the "Brotherhood of Mercy." The hospital was destroyed in 1603 and the land was ceded to the Brotherhood of Mercy, who erected a new building. This building was demolished in 1655 and the property of the hospital was ceded to the Friars of San Juan de Dios, who continued in the administration of the hospital until the year 1866. The buildings of the hospital were destroyed in 1863, and the finances of the institution being heavily encumbered, the government assumed control of the administration. *Held:*

That in its origin the hospital was a public charity, and the Friars of San Juan de Dios entered into the administration not as owners, but simply as administrators subject to the patronage of the King.

That the laws governing institutions of charity in force in Spain, if not extended to the Philippine Islands by implication, were at all events made applicable by the Civil Code of 1889. Under these laws the royal patronage, including administration, extended to the hospital in question.

That the action of the King in taking over the administration of the hospital in 1866 was for the purpose of preventing a failure of the purposes of the foundation; protests against this action, if any were to be made, should have been made then, and the public, after a use extending over nearly forty years, can not in equity be ousted from a possession reared and protected by the State.

That the administration of the Hospital of San Juan de Dios now pertains to the United States as the successor of the Spanish Government.

DEPARTMENT OF JUSTICE, *May 10, 1902.*

SIR: I have the honor to return the papers in the case of the San Juan de Dios Hospital and to submit the following opinion upon the question raised:

The facts in the case are as follows:

In 1577 a Franciscan monk named Juan Clemente, noted for his learning and charity, obtained permission from his superiors and license from the King to found a hospital, and immediately solicited contributions from the public to carry out his project. It is not known how the institution came into possession of the land, there being no further record than that Fernandez—

filled in the large site occupied by the hospital.

In answer to an inquiry made by the governor-general in 1889 the administrator wrote:

In the archives of the board of administration of pious works no information exists in reference to the conditions under which the hospital of San Juan de Dios of this capital possesses the land upon which it is situated.

In the absence of title deeds or grants it must be assumed that the land belongs to the State.

The hospital was destroyed by fire in 1583 and rebuilt with funds contributed by the public. In 1590 one Juan Fernandez actively associated himself with the management, building a hall at his own expense and soliciting alms for its maintenance. For the purpose of assisting the Franciscan Friars, who it seems were the administrators, there was founded about this time a society called the Brotherhood of Mercy, composed of the leading citizens of Manila, and of which the ecclesiastical governor was elected president.

After the second destruction of the hospital, in 1603, the land was ceded to the Brotherhood of Mercy, who erected a new building, to which they gave the name of "Hospital de la Santa Misericordia." This transfer was made with the consent of the King, the Franciscan Friars retaining the spiritual control of the establishment.

The earthquake of 1655 demolished the building, leaving only the one hall standing. This unfortunate occurrence completely paralyzed the finances of the brotherhood, and finding it impossible to continue the administration, it was resolved to cede the hospital to the friars of San Juan de Dios. This was done in a public writing dated May 31, 1656, which was approved by the King in 1659.

It may be noted here that the possession of the friars of San Juan de Dios was subject to the *Leyes de Indias* (lib. 1, Tit. IV, ley 5, p. 15), which, among other things, provides:

It is understood that of the hospitals which they (the friars of San Juan de Dios) administer they are not the owners, neither of their incomes nor of their contributions, but simply the administrators and assistants.

In addition to this, the Brotherhood of Mercy reserved the patronage of the hospital, except that exercised by the King, and as such patrons could visit the institution once a year.

Again, the hospital was built from alms begged from door to door, and the patrimony of the poor sick was so increased that the affairs of the institution were very prosperous until the beginning of the nineteenth century.

The friars then became very immoral and corrupt, though as to the exact nature of their misconduct we are not informed. The mismanagement of the trust became so notorious that in 1852 the Crown decided to suppress the order.

The year 1866 saw a complete failure of the trust. The earthquake of 1863 totally destroyed the buildings; the possessions of the estate were burdened with leonine contracts and immense debts. It was then that the Government assumed control of the administration.

In August, 1866, the governor-general issued an order expelling the friars of San Juan de Dios and turning the administration over to a board of civilians whose president was the president of the *audiencia*. The order further recited that the hospital should become a civil institution, and that ecclesiastical visits should cease.

The real Hospital of San Juan de Dios dates from this time. Had the estate been wound up in 1866 the assets would have fallen far short of the liabilities. Indeed, it was not certain that the board would succeed in reviving it. It was only through the charity of the citizens of Manila, by organizing charity bazaars, that sufficient money was raised to build the new hospital and to save the estate from bankruptcy.

Until the occupation of Manila by the United States the hospital continued to be administered as a civil institution under the direct supervision of the governor-general. The only change made in the board was in 1891, when, on account of the work devolving upon the president of the *audiencia*, the presidency was transferred to representatives of the four leading religious orders, said representatives being named by the governor-general. (Royal order, Oct. 6, 1891.) These appointments were civil, and the remainder of the personnel of the board remained as it had been.

We are called upon to determine the nature and the limits of control which may be exercised by the government of the Philippine Islands over the Hospital of San Juan de Dios. The law upon the subject is so intimately connected with the status of the Catholic Church in Spain that an examination of the latter is essential. Although the relationship between church and state was continually varying, yet certain terms used by writers and legislators expressive of the relationship remained unchanged. Prominent among these are *obra pia* and *patronato*. The retention of these names caused much confusion. Spanish writers in analyzing the respective powers of church and state have failed to distinguish between the former meanings of the terms and their present sense. This I shall show as I proceed.

In the history of Spain the church has passed through three stages, sharply defined both in point of time and in the conception which was entertained of it. For convenience I shall designate these the *ultramontana*, the *reglista*, and the corporate periods.

*The ultramontana period.*—This extended from the beginning of the national history of Spain—i. e., from the expulsion of the Moors—to about the middle of the sixteenth century. Its legal expression is the *Siete Partidas*. The church was all-powerful, and, in its last analysis, was a temporal power dominating the Government of Spain. It is therefore natural that we find canonical law imposed upon the people as a civil obligation; that the first *Partida* is nothing more than a digest of canon law which Alfonso introduced into Spain to obtain the support of the Pope to his pretensions to the Imperial throne of Germany. (Schmidt's Civil Law of Spain, p. 68.)

The church not only possessed houses of worship and monasteries, but also all the schools, hospitals, maternity houses, and all charitable institutions. These were regarded as *obras pias*. All questions relating to them were determined by ecclesiastical courts. The *Partidas*, borrowing from the Roman law, declared that religious houses, monasteries, and churches are sacred and that hospitals are religious property. (*Partidas* 1, Tit. XII, ley 1.) Further, that the above institutions must obey the bishops. (*Ibid.*, ley 2.) Sacred places can not be turned from the service of God to the service of man. (*Ibid.*, ley 3.) The ground upon which sacred edifices are constructed shall forever remain sacred. (*Partidas* 3, Tit. XXVIII, ley 13.)

Since the above-named institutions were *obras pias*, or ecclesiastical property, it follows that the right of patronage in them was also an ecclesiastical right. But it does not follow that this right was born of ecclesiastical law. The *partidas* informs us that patronage means "father of a charge;" that patronage is gained by providing a location for a church, by constructing one, and by in-

heriting the right. (Partida 1, Tit. XV, ley 1.) It included the right of presentation and a place in church processions.

The *partidas* do not treat of what is known to-day as the royal patronage. It nevertheless existed. Alfonso, in Alcalá, promulgated a law in 1328 which declares that according to ancient custom in Spain the Kings of Castile must approve the elections of bishops and prelates, because the Kings are the patrons of the churches, and that said bishops and prelates, before taking possession, must do reverence to the King. Jovellanes points out that the right had been established in Leon, Castile, Toledo, and Seville from very early times, and that the *partidas*, instead of preserving these, merely transcribes the ultramontana maxims of Braciano. (3 *Alcubilla Diccionario de Administración*, 814.)

Charitable institutions, therefore, during this period occupied substantially the same position as churches and were governed independently of the civil authority.

The royal patronage, if it existed at all, must have been ecclesiastical, since by law the control of these institutions was vested in the Pope.

The source from which the patronage was derived, whether civil or ecclesiastical, was not determined, the power of the church being so great as to silence discussion of it. In a word, the temporal power was spiritualized.

The Regalistas period extended from the time of the council of Trent to the French Revolution. Ultramontanian theories could not be otherwise than obnoxious to Spaniards. Jovellanes relates that the Cortes of Valladolid in 1345, of Guadalajara in 1390, of Valladolid in 1523, of Seville in 1532, and of Madrid in 1534 opposed the laws by which the church was enabled to control so vast a property. (3 *Alcubilla Diccionario de Administración*, 814.)

In 1480 Fernando and Isabel scored their predecessors who had given away their prerogatives, and reclaimed them with insistence. (*Novísima Recopilación*, lib. Tit. XVII, ley 5.)

Carlos I of Toledo in 1525 claimed the patronage as an immemorial prerogative. (*Ibid.*, ley 6.)

The real source of the difficulty was but vaguely understood. The church figured not only as an exclusively religious institution, but it was also political and administrative. As a political institution it occupied a seat in the Cortes. In its administrative capacity it created universities, schools, and libraries. (Report of Minister of Justice, 2 *Alcubilla Diccionario de Administración*, 882.)

Instead of separating what was religious property from civil; instead of confining the church to its proper sphere and converting universities, schools, and hospitals into civil institutions, the Regalistas attacked the problem from another side. The properties of the church were still termed *obras pías*, or *piezas eclesiásticas*, and were perhaps regarded as sacred, and therefore within the sole jurisdiction of the church. But the church itself came to be regarded as a political or civil institution, and its chief, so far as the management of its temporalities was concerned, and even intrenching upon its spiritual administration, was the King of Spain.

The meaning of patronage became very much broadened. The Crown, in governing the church, and, through it, the *obras pías*, did it

as royal patron. As patronage originally meant only the power of presentment to benefices this extension of meaning was necessary. We see the word "protector" used in the law, and the phrase "patron or protector." A flood of literature spread over the country having for its object the determination of whether the patronage belonged to the King by virtue of endowing the obras pias, and therefore was a civil right, or whether it was a concession from the Pope and the King was merely a papal delegate.

The concordat of 1737 left the question of patronage open. From 1737 to 1753 each side argued its position with heat. Another question arose. The King claimed that not only did the patronage belong to him, but that all questions relating to patronage could be determined only by his council acting as a court.

The concordat of 1753 recognized the King's title to the patronage, but declared that he could not interfere in purely spiritual matters.

On September 6, 1770, the King and the council promulgated an order for the preservation of the prerogatives of the Crown and the nation in matters taught in the universities. This law was the result of an attack made by Miguel de Ochoa, of the University of Madrid, upon the civil authority. The document was turned over to the bar association for answer, and their reply is incorporated in the law. Extracts from the report follow:

How is the origin of the patronage of the churches in the temporal power? Thus noted authorities have argued, and with reason. (35 Revista de Legislación y Jurisprudencia, p. 82.)

In order to prevent confusion it is necessary to divide ecclesiastical causes into two classes. The first is that in which the King only tries to preserve the state from insults and innovations which disturb the peace. In this are included all forceful measures, such as the examination of bulls, laws of discipline, those of new tithes, the special protection over religious and ecclesiastical associations of the Kingdom, the expulsion of ecclesiastics, etc. This essentially constitutes sovereignty. We conclude this prerogative is a necessary defense of the temporal state, and does not emanate from the church. (Ibid., 107.)

The second class consists of those rights which, being now prerogatives, owe their origin to a generous but most just reward of the church, such as *tercias*, *diezmos*, *patronatos*. It is a maxim of law and natural reasoning that the author of a donation can qualify it with restraining conditions, or can amplify it, and as it has been an undeniable practice of the King to exercise jurisdiction in these cases, it appears not repugnant to say that said jurisdiction came from the same source as the donation itself.

*Diezmos*, *tercias*, *patronato*, and other rights coming from the church at the moment they passed to the Crown became profane, because what is called spiritual in these rights is an intrinsic quality arising from the end which they accomplish. Being profane, the royal jurisdiction, which essentially embraces all the temporal, necessarily includes it. (Ibid., 109.)

We prohibit from now on instruction in the universities in question directed against the royal authority and prerogatives. For this purpose the university will note the contents of the report of the bar association. (Ibid., 128.)

The corporation period extends from the French Revolution to the present day. The report of the minister of justice admirably describes the reasons for the change:

The great principles proclaimed by the French constitutional assembly of 1789, and later on accepted enthusiastically by other modern nations, destroyed the foundations of the old states by showing the attributes which correspond to each one of the great social institutions. The civil power had to claim its natural attributes, which, in part, had been exercised until then by the church, and the latter in consequence of this was obliged to renounce the privileges which it had acquired, in this way losing its character as a political and administra-

tive institution. Its personality under these two aspects having disappeared, it no longer required the great property which it had employed to realize the ends which from this time on came under the jurisdiction of the state. (Report of minister of justice, 2 Alcubilla Diccionario de Administración, p. 882.)

Again:

Laical institutions and public beneficences have ceased to be ecclesiastical functions and are now covered by civil funds; therefore the church does not need property for this object. These institutions of charity had been taken away from the church, and the latter was never indemnified for the expropriation, on the ground that "the nation, therefore, owes it an indemnification equal to the value of the property necessary for these (religious) purposes, but not for the remainder of its patrimony, which it devoted to political and administrative purposes. It would not be just that the nation should burden itself doubly for the same expenses." (Ibid., p. 883.)

In this era leading up to the definitive provisions of the Civil Code of 1889 were enacted laws of *beneficencia* and *desamortizacion*. The latter separated the church from a great portion of its property and the former organized that part of it which was devoted to charity under a new theory. Instead of being divided into ecclesiastical and laical institutions, they became public and private. No distinction was made between those owned by the church and other corporations. They were still called *obras pias*, but not *piezas eclesiasticas*, the latter term simply meaning property owned by the church as a corporation.

A reference to Spanish law will sustain this position.

The first decisive blow was struck in 1820 by the law of mortmain. It provides:

Neither churches, monasteries, convents, nor any ecclesiastical associations whatsoever, whether secular or regular, hospitals, orphans' homes, houses of charity and instruction brotherhoods, and other establishments, whether ecclesiastical or laical, or known under the name of *manos muertas*, shall from this day be allowed to acquire any property or estates in any province of the monarchy, either by will or by donation, purchase, transfer, mortgage, pledge, or by any other title whatsoever.

Previously (September 19, 1798) Charles IV decreed that all estates belonging to hospitals, etc., should be sold.

In 1835 the law of disamortization declared the law of 1820 to be in full force and effect. Upon the heels of this law came the law of charity (1822) providing for the new order of things. It provided that the funds of all foundations, *obras pias*, or ecclesiastical, whatever their origin, should be reduced to one class; that is, that of institutions for relieving necessities named in the law; further, that all hospitals, etc., shall be under the direction and superintendence of the municipal councils; that all eleemosynary institutions, of whatever class or denomination, be included in the law, and that those not specifically mentioned be suppressed; that the ancient custom of electing nobles or ecclesiastics only to the board of administration be discontinued.

The law of 1841 declared that all property of the secular clergy, whatever its origin, should become property of the nation; only those devoted to public beneficence are excepted.

In 1845 arose the question whether municipal boards had the power to intervene in the accounts of ecclesiastical foundations. The Queen decreed that the superior administrative authority corresponded to the protectorate of all establishments, including those of collective

interests. This shows that the obras pias belonging to ecclesiastics were treated as others, the only question being whether the institution was public or private.

In 1845 the property of the secular clergy not sold was given back.

The law of 1849 declared all charitable institutions public except those supported exclusively out of private funds, provided they accomplish the object of their foundation.

Various other laws of mortmain were passed which incensed the clergy. In 1859 an agreement was reached between the Pope and the Queen. It provided that in the future there should be no sale, exchange, or confiscation of church lands without the consent of the Holy See; that certain lands were to be sold and the proceeds invested in public securities; that the church shall have the right to acquire property and that their right shall be solemnly respected, and therefore the old and new ecclesiastical foundations can not be suppressed without the authority of the Holy See; further, that those who have bought ecclesiastical property under the civil laws, and their successors, should not be molested by the Pope; that all the remaining property provided for in the agreement belonging to ecclesiastical persons or things should be directed and administered according to the discipline of the church.

The construction of this law is clearly indicated by later acts. The King decreed that all monasteries, convents, congregations, and other religious houses of both sexes founded in the Peninsula and adjacent islands since July 29, 1837, be suppressed and that their property should become the property of the state. Exceptions were made of the Sisters of Charity, the escuelas pias, and several other societies dedicated to charity and instruction. "As is seen," says Scaevola, "the church in general has the power to acquire and to possess property of any class, but not so the religious communities." (1 Scaevola Codigo Civil, p. 343.)

Still more strikingly does the civil code evidence the theory that property rights come from the sovereign as the result of the statutes of mortmain. I quote again from Scaevola's Commentaries on the Civil Code:

SEC. 35. The following are judicial persons: First. Corporations, associations, and foundations of public interest recognized by law.

Comments. \* \* \* Those entities are called corporations in which there exists an equilibrium among the members; those are associations in which the individual interest predominates over the collective interest; those are foundations in which the individual interests completely disappear, and, on the contrary, the beneficiaries absorb it entirely; for example, a hospital, a school. (1 Scaevola, Codigo Civil, p. 316.)

SEC. 38. Juridical persons may acquire and possess property of all classes and also contract obligations, institute criminal or civil action in conformity with the laws and rules of their institution. The church will be guided in this regard by what has been agreed between both powers, and the establishments of instruction and charity by what the special laws provide.

Taking into consideration these words, it appears that in order to determine the capacity of the divers collective persons to whom we refer, it ought to be sufficient to examine the law, and yet it is not so. Besides the particular laws which govern the life of the divers entities there exist others of a general character whose object is rather political than civil, which it is necessary to keep in mind—the Statutes of Disentail and Disamortization. (1 Scaevola, Codigo Civil, p. 319.)

It remains only to call attention to the various acts relating to charities. Time and again the Government asserted its protectorate

over eleemosynary institutions. (See Royal order, Mar. 25, 1846; Sept. 28, 1846; the law of June 20, 1849, art. 11, par. 5; regulations of May 14, 1852, tit. 2, art. 29.)

The royal order of October 12, 1860, declares that institutions of beneficence belonging to brotherhoods, etc., are classed as private.

The dean of the Holy Cathedral of Seville requested a decision as to whether the *patronatos* which he administered came within the law of the protectorate. The Government replied, expressing its displeasure at the petition as tending to deny the right of inspection and supreme protectorate of the Government over patrons and administrators of establishments of charity, foundations of a charitable character, and obras pias. (Order, Aug. 23, 1869.)

The question arose in 1871 as to whether a foundation for redemption of captives and for endowing those who wished to take orders came under the laws of beneficencia. The Government says that the word "beneficencia," derived from "benefacere," indicates an institution of charity, whatever be the means employed to succor the unfortunate. (Royal order, Apr. 20, 1871.)

An important act is that of April 27, 1875. Some of its leading provisions are:

ART. 3. Charitable institutions denominated "general," those of patronage of the Government or its delegates and agents, shall be entrusted to a board of patrons.

\* \* \* \* \*

TIT. 1, ART. 1. Those establishments belong to beneficencia general which are classified under this character in the manner provided by law.

ART. 2. Private beneficence comprehends all those institutions created and endowed from private funds and whose patronage and administrators are regulated by their respective founders, or in their name, or confided to corporations, authorities, or determined persons.

ART. 3. Every private institution will acquire the character of public if entrusted by foundation to a patron de officio and the office has been suppressed.

\* \* \* \* \*

ART. 5. Institutions of charity are establishments or permanent associations devoted to gratuitous satisfaction of intellectual or physical necessities, as maternity houses, schools, colleges, hospitals, and other analogous institutions, and also foundations without permanent character, known as patronatos, memorias, legados, obras y casas pias. \* \* \*

ART. 7. To the Government pertains the patronage of all charitable institutions which affect undetermined collectivities and which therefore need it.

ART. 8. \* \* \* In public establishments the action of the Government will have no other limits than imposed by law.

\* \* \* \* \*

ART. 10. The Government reserves the right to approve the constitutions and regulations of foundations of its patronage, etc.

ART. 11. The minister of state shall have power to create, suppress foundations, modify them in harmony with new social conditions, etc.

Sections 31 and 32 relate to the power of the board of patrons to whom the Government confides the administration of establishments which by law or foundation are of its patronage. The board can make suitable laws of management (to be approved by the Government), prescribe salaries of employees, have the direction and administration of establishments complying with the prescriptions of law and foundation, etc.

Section 32 is devoted to the protectorate exercised by the Government over private patrons.



The result of this legislation, in a word, was that proprietary rights, instead of being determined by the character of the property, were determined by ordinary titles of civil law. An *obra pia* belonged to the individual who had title to it and was not under control of the church on account of any intrinsic quality. In the fifteenth century *obra pia* meant substantially church property, but in the nineteenth it means any work devoted to either religion or charity. This is clearly deduced from the laws quoted.

Patronage then resolves itself. If of ecclesiastical property, it may be ecclesiastical, but if of temporal, it must be temporal. The law of 1855 shows that Government patronage of charitable institutions includes administration and that public charities are of Government patronage; while of private charities of private patronage the Government exercises a supervision or protectorate which corresponds exactly to our concept of *parens patriæ*.

The questions arise as to what powers the Government would have over a hospital owned by the church. The church, according to the civil code, should be governed by what has been agreed between both powers. But this agreement is merely to the effect that the church shall be respected in its property rights. It does not mean that its hospitals would not come under the general laws of charities. An analogous case would be that of a factory owned by the church and being subject to the general factory laws—for example, of child labor. Otherwise, the church could place at naught many essential laws. That this was the attitude of the Government of Spain is apparent from the decision in the case of the dean of the Cathedral of Seville, *supra*.

Nor would the patronage of such a hospital be an ecclesiastical patronage. The latter term, as defined by the council of Trent, relates merely to presentments, but the law of 1875 in unmistakable terms shows that the Government patronage is of protectorship as well as of administration, the latter being delegated in order to allow a free exercise of the former. In exercising this protectorship the Government has sometimes signed itself as patron and at others as protector.

The protectorate is the superintendence and tutelage which the Government exercises—scrutinizing the acts of the patrons, taking care that the will of the founders be accomplished, and interpreting and supplying it in necessary cases. The Government, besides exercising the general functions of the protectorate, has also the special ones of the patronage in those establishments which it has founded or which has been conferred upon it by private individuals or with which it is charged by reason of the foundation being bereft of representation. In such cases it gives the patronage in charge of special committees in order to make free the power which it reserves to itself over these committees. (*Decreto Administrativo Santa Maria, 403.*)

That the protectorship is a temporal power needs no defense, it being one of these prerogatives without which there can be no sovereignty. Under the civil code the religious corporations are separated from the church. They are not within the provision of the concordats, as is proved by the confiscation of much of their property in 1868. If they own hospitals, it is simply as any other private corporation, and upon their dissolution or suppression the property becomes property of public beneficence and does not, according to the laws of charity, pass to the church. The supreme court of Spain

decided that an estate left in charge of prelates who were its patrons and administrators was a private institution of beneficence, the said patrons not having been suppressed. (Gaceta Oficial, 1866, p. 24.)

We come now to the discussion of the application of the above jurisprudence to the Philippines. It is provided by the laws of the Indies that in cases where there is no law on the subject in the Philippines the laws of Castile must be observed. (Recopilación de Indias, book 2, Tit. I, leyes 1, 2.)

The declaration of the King of Spain in regard to the royal patronage of the Indies, found in the laws of the Indies, which provides that the patronage of the King shall extend over all hospitals built in the Philippines, was promulgated during what we have termed the period of the regalistas. It will be remembered that at this time charitable institutions were regarded as religious places and their administration was intrusted to the clergy, but that the Crown specifically declared that the patronage was a civil prerogative, and that virtually the church was nothing more than a part of the administrative machinery of the state. In spite of the fact that the laws of mortmain were not extended to the Philippines, and it was so declared, yet we can not conceive how the theory of charity and charitable institutions which had undergone such an immense change in Spain could not have become affected as applied to the Philippines. That the influence of the corporation period was potent in the Philippines may be gathered from a reference to the works of San Pedro, which classify all the hospitals in the Philippines under the head of *beneficencia*. In 1880 the governor-general appointed a committee on charity, consisting of the charitably disposed women of Manila, for the purpose of collecting funds especially for the San Juan de Dios Hospital, and for all other institutions of charity. All doubts, however, are resolved by the civil code of 1889. Its provision that institutions of charity shall be governed by what the special laws upon the subject provide of itself extends all the laws of charity of Spain to the island. If it does not, the meaning of the said section would not be clear; in fact, it would have no meaning at all. Scaevola, quoted above, distinctly makes this statement:

On no other theory can we account for the legislation, especially with reference to the hospital in question, of the last forty years.

Specifically applying these laws to the Hospital of San Juan de Dios, I conclude that during the sixteenth and seventeenth centuries it was nothing more than a public charity, administered by the clergy, because customarily all charities were so administered. It was undoubtedly termed *obra pia*, and still is classed as such. I have shown, however, that this classification in no wise determines proprietary rights. The Laws of the Indies (book 1, Title IV, law 5, par. 15), quoted above, conclusively show that the friars of San Juan de Dios entered into the administration of the hospital not as owners but simply as administrators. The order of 1866 was therefore not an exercise of arbitrary power. The laws of charity contained many provisions by which private institutions (if this can be considered as a private institution) will acquire the character of public institutions, among them being a failure of the trust, or a failure of administration, or a lack of funds. In 1866 there really was no hospital, the buildings having been destroyed and the properties of the friars

heavily mortgaged. The estates were not sufficient to cover the indebtedness of the foundation. It was not only just, but necessary, that the King should take over the administration of the hospital in order to accomplish the will of the founder. The matter may be treated as *res adjudicata*. Protests, if any were to be made, should have been made in 1866. The public, after a use extending over nearly forty years, can not in equity or good conscience be ousted from a possession reared and protected by the state, even though the stand taken by the King was unjust; for it is evident that the injustice of such a course would be far greater than would have been the latter.

The action of the King effectually disposes of any plea on the part of the church that the institution was an ecclesiastical *obra pia*, for it is impossible to go behind the King's order, and whatever may have been the nature of the foundation before 1866 there can be no doubt as to the intention of the King in the order quoted. The document is also valuable in that it is an interpretation by the highest court of the land of the doctrine of patronage. It proves that the deductions which we have made from the general legislation of Spain that the patronage, as applied to hospitals, whatever it may have meant two centuries ago, to-day means nothing more than protectorship and administration, is correct. Having declared the hospital to be civil, the monarch signed all acts relating to it as patron, thereby showing that he considered the patronage to be civil. In 1874 the hospital is specifically denominated the Civil Hospital of San Juan de Dios, showing that the hitherto signed acts as patron did not, in the mind of the sovereign, change the character of the institution.

Further proof is found in the royal order of 1883:

The patronage extends to everything that is not purely spiritual.

In 1889 General Weyler, then governor-general of the Philippines, in a general order relating to the management of hospitals, declared the Government to be the patron or protector of charitable institutions. The concordat of 1753 and those following, recognized the protectorship as being a strictly temporal prerogative of the King, so that if the patronage as used in the Philippines was a protectorate, it could possess nothing of the spiritual and could not, therefore, be derived from the Pope. The fact is that the action of the King was analogous to that taken by the United States in the *Mormon Church case* (136 U. S., 1) and was, whatever the name by which it was called, purely an act in the exercise of the prerogative of *parens patriæ*.

The court will look at the nature of the acts to determine the prerogatives under which they were exercised, and not the names under which action was taken.

I conclude that the hospital is a foundation, as known under the civil code, and that by reason of the laws of charity having been extended by implication to the Philippines, and also specifically by the said code, it is a public institution of charity, and that the right of administration resides in the Government, which should take possession of the same, resorting in case of necessity to the courts to do so.

Very respectfully,

L. R. WILFLEY.

The CIVIL GOVERNOR.

## OPINION OF THE SOLICITOR-GENERAL OF THE PHILIPPINE ISLANDS AS TO THE HOSPITAL OF SAN JUAN DE DIOS.

### HOSPITAL OF SAN JUAN DE DIOS—ADMINISTRATION.

Owing both to the character of its foundation and the special provisions of the laws of the Indies, the Hospital of San Juan de Dios has never been the particular property of the persons having charge of it; consequently it can not now be contended that it is the property of the Catholic Church, notwithstanding the ecclesiastical character of the societies that administered it.

The laws of the Indies provided for the supervision of the hospital in question, as well as of all other hospitals in the Indian possessions, by the officers of the Government.

The authority to provide for such supervision was not delegated by the church, but existed independently in the Government of its own right.

In the exercise of this authority, to prevent a failure of the purposes of the foundation, the Government in 1866 took over the administration of the Hospital of San Juan de Dios and made it in all respects a civil institution.

The administration of the Hospital of San Juan de Dios now pertains to the United States as the successor of the Spanish Government.

DEPARTMENT OF JUSTICE, *May 10, 1902.*

SIR: By direction of the Attorney-General, I have the honor to address this communication to you with the object of submitting some observations concerning the opinion rendered by him in regard to the Hospital of San Juan de Dios.

I concur in the opinion that the Hospital of San Juan de Dios is a corporation or body with legal existence, and that it has the standing of a juridical person in accordance with the terms of the Civil Code; and that the matter of providing for the administration of its affairs pertains to the Government of the United States in these islands, and not to the Roman Catholic Church.

The opinion of the Attorney-General proceeds from the historical standpoint, from a consideration of the successive transformations in the relations of the Catholic Church and the Spanish Administration. I propose to approach the question more from the legal point of view.

The history of the hospital demonstrates that its founder, the lay brother of the Franciscan Order, Juan Clemente, did not endeavor to stamp the institution as private property. He tried to found an establishment for the benefit of humanity, without any personal motives or any consideration of the interest of the corporation to which it pertained, and without any intention of acquiring control over the hospital, either generally or as a member of the corporation. He endeavored to establish an institution with its own proper existence and resources. The donations which were made to the hospital, the principal source of its revenues, were not made to the Father Juan

Clemente, nor to the order of San Francisco; they were made to the hospital for the purposes to which it was dedicated. Neither Father Juan Fernandez, also a Franciscan, who continued the work of his religious brother, nor the brotherhood of Santa Misericordia, which collaborated in sustaining the hospital and which later took charge of it, nor the priests of San Juan de Dios, to whom said brotherhood delivered the Hospital of San Juan de Dios, would be able to call themselves owners of the hospital.

It therefore remains settled that the Hospital of San Juan de Dios, from the date of its foundation until it passed into the hands of the priests of San Juan de Dios, was a foundation with proper existence, established for the benefit of the sick, and was not the particular property of the persons who took charge of it, and consequently was not the property of the Catholic Church, notwithstanding the ecclesiastical character of the Franciscan priests and those of San Juan de Dios. The Fathers of San Francisco, the Brotherhood of Santa Misericordia, and the priests of San Juan de Dios did not, in the opinion of the special patrons of the hospital, exercise more than the administration thereof.

In endeavoring to study this question we must observe that the character of the hospital was both civil and ecclesiastical. This was due to the bonds which united so intimately the church and state, not only in Spain but also in the colonies, so that the church exercised civil functions and the state interested itself in matters of a purely ecclesiastical character.

In accordance, nevertheless, with the provisions of the laws of the Indies relative to hospitals, the Government has the supreme authority and right of superintendence over the hospital, the exercise of which authority and superintendence did not have to be delegated by the church, the power of the sovereign sufficing for this, for the reason that in his tutelary capacity he was called upon to provide for the interests of his subjects and to see that the purposes of public institutions were accomplished.

Law 1, Tit. IV, book 1, of the Recopilacion of the said laws provides that "hospitals shall be established in all the Spanish and Indian towns." The third law of the same title and book provides that "viceroys, audiencias, and governors shall exercise care over the hospitals;" the fifth, that "the priests of the beatified Juan de Dios, in the administration of the hospitals which they have in their charge, shall maintain the form prescribed by this law," which law contains important provisions; the twentieth, that "the hospitals of Manila shall be in charge of the judge of the audiencia."

The fifth law cited above, among other things, contains the following:

7. That the priests are given to understand that the hospitals entrusted to them, or which may be entrusted, are not given to them in order that they may be used as convents of their religion, nor that they may use them for its propaganda, since even to the most ancient this is not permitted without our particular license, and others are totally prohibited from establishing themselves in the Indies; and our will and intention in intrusting to them said hospitals is only that they may succor the sick in them, in accordance with their first and principal institution, which they have to maintain and accomplish, except in the edifices that by our law shall be declared to be convents only and used as such, and those which by particular permission and license shall be permitted to be used for this purpose.

This serves to confirm that which we have said above—that the priests of San Juan de Dios did not become owners of the hospital, but only exercised administration over the same by delegation from the civil power, and under supervision thereof.

So it is also that, in spite of the deed of May 31, 1656, by which the Brotherhood of Santa Misericordia ceded to the priests of San Juan de Dios this hospital, stating that the said brotherhood made irrevocable donation to the Order of San Juan de Dios, and in their name to the vice-comisario of the same, of a hospital, houses and properties, annuities, accounts and debts, “negros y negras” (referring to vestments), linen and medicines, and everything pertaining to the said hospital and to divine worship, and all that then and in the future should to it pertain, in order that, as their property, “the priests should collect and enjoy them, using them according to their will, without restraint,” the said priests did not acquire the property of the hospital. Apart from the fact that the brotherhood that made the cession did not possess the property, the law of the Indies cited declares that the priests mentioned should have charge of the hospitals, not to make convents of them, but only that they should in them give relief to the sick in conformity with the principal object of their institution, the ordinances of which (cap. 15) are as follows:

That the Brothers of San Juan de Dios who shall be entrusted with the administering of the said hospital, and those that may be by them empowered with the management of the same, are given to understand that they do not exercise this authority as owners or proprietors of same and of their incomes and charities or alms, but as administrators and assistants of the said hospitals and of their poor, and in order to serve God in them, and to increase the pious and laudable object and vocation of their religion.

Taking into account these antecedents, it is not extraordinary that when, after the lapse of years, the priests of San Juan, forgetting the object of their institution and the mission that had been entrusted to them, and being guilty of conduct unworthy of their calling, and also exercising improper administration of the hospital, a royal cedula was issued on October 19, 1852, in which, among other things, the following is provided:

IX. One of the points which represents most conspicuously the piety of my glorious predecessors has been the care they have taken in providing resources for the establishment of hospitals in all the towns of the Indies, and in the cities and villages inhabited by Spaniards, dictating the rules to which the Brothers of San Juan de Dios and other orders have to subject themselves in the administration of the same, when for convenience they entrusted these orders with the care of them; but, as in the course of time many of these rules have been forgotten, and others have fallen into disuse, and as, above all, the suppression of the order of San Juan de Dios in the Peninsula has led to a diminution in these islands of the number of brothers of this order to such a degree that it is now impossible to properly attend to these hospitals, and moreover the vigilance formerly exercised over them by the superior of the order lacking, as there is no longer such an official, and it being desirable to find a remedy for this unsatisfactory condition in these hospitals, and being convinced that nothing would more greatly contribute to their improvement than the substitution of Sisters of Charity in the place of the Brothers of San Juan de Dios, as the sisters are achieving excellent results everywhere, I have directed that petition be made to His Holiness for the proper bull for the extinction of the houses of San Juan de Dios in these islands, and that in their place be sent Sisters of Charity to establish a nunnery in order that they may take charge of the hospitals, and also undertake the education of girls in the colleges of Santa Potenciana, Santa Isabel, the Jesuits, and San Sebastian, acting in conjunction with the patrons thereof. (Rodríguez San Pedro, Colonial Legislation, vol. 7, p. 880.)

The orders contained in the foregoing cedula concerning the final extinction of the Order of San Juan de Dios were affirmed by royal order of August 17, 1865. A copy of the said royal order is attached, taken from San Pedro's work on Colonial Legislation (vol. 12, p. 438).

For the purpose of executing the said royal order on the 29th day of August, 1866, the superior government of these islands issued a decree directing the transfer to Cavite of the ecclesiastics of San Juan de Dios and appointing a board of inspection to take charge of the administration of the hospital. A copy of the said decree is attached, taken from San Pedro's Colonial Legislation (vol. 10, p. 445).

This decree commences as follows:

The spirit of the royal order of August 17, 1865, unquestionably is that the administration of the Hospital of San Juan de Dios of Manila become completely civil, although temporarily, and form a department of the administration, inasmuch as, invoking paragraph 9 of the royal cedula of October 19, 1852, it directs that the hospital be immediately withdrawn, by the authority of the superior governor, from the administration of the ecclesiastics of the Order of the Hospitalers. This spirit, the text of the order in the part referring to the measures adopted for the ecclesiastical visit directed to be made in the establishment at the request of certain worthy ecclesiastics, and the final directions thereof are conclusive evidence that the execution of that royal order makes the Hospital of San Juan de Dios an establishment for the present purely civil. If these reasons are not sufficient to show the legality of this position, many others of the same nature might be advanced, and among them the most important is that upon the removal from that hospital of one religious order their place can not be taken by another order, or even by individuals of an ecclesiastical character, without inducing most grave and dangerous results. It is the duty of the administration, as the protector of all public interests, to overcome this difficulty and to take charge of the place where the unfortunate sick are at the present time in need of assistance. This is, moreover, the opinion entertained by His Majesty's Government.

Third. The Hospital of San Juan de Dios of Manila and its dependencies shall be in charge of a board of inspection composed of his excellency the regent of this royal audiencia, as president; Don Tomas Balbas de Castro, counselor of administration, ex-president of the late auditing committee of the hospital, and at the present time acting as liquidator thereof, by virtue of which he should discharge the duties of treasurer; Don Mariano Tuason, Don Francisco de Paula Sembrano, Don Juakin Pardo de Tavera, counselors of administration; and Don Manuel Asensi, chairman of the claims committee of the council, and Don Casimiro Cortazar, chief of section of the superior government, the latter to act as secretary.

Fourth. For the interior administration of the hospital there shall be an administrator and a major-domo, to be appointed by this superior government, who shall discharge their respective duties under the inspection of the board. Both should be classified as temporary employees and shall receive a salary of 1,200 crowns and 800 crowns, respectively.

Fifth and last. The board shall recommend to this superior government such alterations and reforms in all branches of the hospital service as may be feasible and proper to introduce, their suggestions to be made with a view to the greatest economy. The board shall also immediately fix the amounts of the bond to be given by the administrator of the hospital.

Since that time the Hospital of San Juan de Dios has been and is a purely civil institution, under the exclusive administration of the Government, the church not having any intervention or part whatsoever in this administration. From the delegated administration of the Franciscan ecclesiastics the hospital passed to the administration of the state derived from the sovereign power. It would be a vain claim for the church to make that the Government assumed the administration of the Hospital of San Juan de Dios under the right of patronage, and that this being a pontifical grant, an ecclesiastical

power, it could not have been transferred to the United States by virtue of the treaty of Paris, owing to the separation of church and state prevailing in that country. Such an argument would be unfounded and absolutely without support, unless it be upon the inadmissible supposition, which has served as a starting point for the church and its representatives in other questions, that eleemosynary institutions, founded by the authority of the church and with the license of the King, are pious foundations, which form part of the property of the church, whose administration is vested in the latter by canon law, and that the administration of the government is under the patronage and by delegation of the Pope. Such an argument would be to establish as a fact a controverted theory.

Much might be said on the subject of patronage, but neither time nor the purpose of this communication will permit.

I might add, however, that the Hospital of San Juan de Dios, as shown by the foregoing, is not the property of the church, and that the latter therefore can advance no right to the administration of the hospital. It is a charitable foundation of public character, whose authorized patron, the Order of San Juan de Dios, has been suppressed. In the absence of any person to take charge of the administration, the government, as the tutelary power of the nation, or as *parens patriæ*, is under the duty of providing for the vacant administration, in order that, in the interests of the public, the purposes of the establishment may not fail for the public benefit. Such power and duty is an attribute of sovereignty, and as such is exercised even in those countries in which church and state are separate.

The exclusively civil character of the Hospital of San Juan de Dios is in no wise modified by the fact that the royal order of October 6, 1891, on account of the many and pressing duties devolving by reason of his office upon the president of the audiencia, directed that the presidency of the board of the Hospital of San Juan de Dios, and of other charitable institutions, be filled by the provincial of one of the four religious orders established in these islands, as this appointment was made by the civil authorities, and the provincials performed their duties as officers of the state.

What has been said leads to a confirmation of the conclusion that the Hospital of San Juan de Dios is a charitable foundation, existing independently, and is a juridical person within the meaning of article 35 of the civil code, and that the administration thereof pertains to the Government of the United States in these islands in subrogation of the Government of Spain, in which it was formerly vested.

Very respectfully,

GREGORIO ARANETA,  
*Solicitor-General.*

Approved:

L. R. WILFLEY.

The CIVIL GOVERNOR.



## OLD STATUTES OF THE BANCO ESPAÑOL-FILIPINO.

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OFFICE OF THE COLONIAL MINISTER.

### STATUTES OF THE BANCO ESPAÑOL-FILIPINO.

TITLE I.—*The name, constitution, title, object, domicile, and duration of the association (sociedad).*

ARTICLE 1. The Banco Español-Filipino, duly incorporated in 1851 and reorganized by virtue of royal decree of February 7, 1896, shall be governed by these statutes.

ART. 2. The Banco Español-Filipino shall continue to exist for a period of twenty-five years commencing from the 1st of January, 1903. Upon the necessary proceedings being had and due authorization granted, this period may be extended at the request of the general board of stockholders (junta general de accionistas) provided such request be made at least one year before the expiration of the twenty-five years mentioned.

ART. 3. The domicile of this association (sociedad) shall be at Manila.

ART. 4. The business in which the bank may engage is as follows:

(1) Discounting bills of exchange (letras de cambio) and commercial promissory notes (pagares de comercio) whether the bearer be a merchant or otherwise. The bills of exchange referred to must not extend beyond six months, and the promissory notes referred to not beyond ninety days, and both shall have the guaranties and requisites provided by article 7.

(2) Making collections intrusted to it of current and cash obligations (obligaciones corrientes y efectivas) and it may make advances upon the same in such cases as the governing board (junta de gobierno) shall decide upon.

(3) Opening current accounts in coined money (metalico), public or industrial and mercantile securities (efectos publicos ó valores industriales y mercantiles) issued by legally established concerns (firms).

(4) Caring for voluntary, necessary, and judicial deposits made to it in money, ingots or jewels of gold and silver with or without precious stones, public or industrial and mercantile securities issued by legally established concerns (firms).

(5) Negotiating or drawing domestic or foreign bills of exchange, observing the formalities laid down in the Code of Commerce.

(6) Dealing in gold and silver.

(7) Making loans for a period not to exceed ninety days with guaranty and collateral (deposito) such as precious metals, articles of commerce, products of the country, public or industrial and mercan-

tile securities that are safe and easily realized upon, provided, however, that all such collateral shall first be approved by the governing board. Such collateral shall be received at three-fourths its value or quotation. When, however, the person or legal entity to which a loan is to be made is, in the judgment of the governing board, sufficiently solvent apart from the collateral given, then the governing board may direct that such collateral shall be received at 90 per cent of its value, provided always that the same consists of products of the country, public or other securities easily realized upon, and that the borrower appear on the credit list of the bank. In every such case, however, the borrower shall be required to replace in coin, public securities (valores publicos ó efectos) the amount of the depreciation which such securities may suffer, so that the amount advanced thereon may at all times be fully covered.

(8) Loans on bills of lading accompanied by invoices and insurance policies, in which cases the amount advanced shall not exceed three-fourths of the value of the articles covered by such bill of lading according to the current market price.

(9) Giving credit, deposit first being made, upon public or industrial and mercantile securities approved by the governing board to such amount as the rate fixed for loans may indicate. Persons to whom such credit is given, whether they make use of the same or not, shall pay a commission on the amount thereof in such amount as the governing board may direct and also such interest as may be agreed upon beforehand on the funds placed at their disposal. Credit may also be advanced on current accounts with security (garantia). In returning and selling securities (garantias) the same rules shall be observed that are provided for securities (garantias) in the case of loans.

(10) Raising funds on securities belonging to it or otherwise negotiating the same whenever it may be necessary.

(11) Contracting with the treasury of the islands under security given by the same through its suboffices (dependencias), and authority being first had from the colonial minister.

(12) Making loans to provinces or municipalities within its territory upon approval by the protector and upon good collateral (seguras garantias).

(13) Making loans to firms and associations established in the archipelago, and which, in the opinion of the governing board, shall be able to meet their obligations.

(14) Making loans on property (fincas) to one-half the value thereof, and in no case shall it issue debentures without right of redemption.

(15) Making loans on ships which are insured, without liability for loss, the amount advanced in such case not exceeding one-half the value of the ship and not for a period of more than one year. The foregoing transactions can be made only when there is a surplus in the treasury and there is not, in the judgment of the governing board, a reasonable hope of being able to employ such surplus advantageously in mercantile transactions.

(16) Discounting acquittances (cartas de pago) of the "Caja de Depositos" at Manila within the time specified in the by-laws (plazos reglamentarios).

(17) Undertaking on commission such other banking business or credits as it may deem proper.

(18) Arranging with the colonial minister or his duly authorized representatives for the issue and negotiation of public securities, the payment of obligations incurred through the same, or any other service of the treasury.

(19) And, finally, transacting such other business as in the judgment of the governing board may be required by the commercial needs and practices of the archipelago, and which is compatible with the safety of other business.

ART. 5. The bank shall not deal in public securities (efectos publicos), but it may acquire directly from the state such securities when issued by it.

Mortgage obligations created by royal decree of June 28, 1897, are excepted from this restriction and the same may be freely acquired and disposed of by the bank.

ART. 6. The bank shall not acquire by purchase its own stock, nor shall it accept the same as security on loans nor transact any business based thereon.

ART. 7. Bills of exchange and promissory notes discounted by the bank must comply with the requirements of the code of commerce, and, furthermore, be signed by two persons known to be solvent, one of which persons must necessarily appear on the credit list of the bank and be a resident in the locality where the transaction is had.

Should one of said signatures be wanting, it may be supplied by the security mentioned in the seventh provision of article 4. In no case shall promissory notes or bills of exchange (or drafts) be discounted which in the judgment of the bank authorities have already been discharged (valores de solucion).

Treasury drafts on its funds (?) may be discounted without the signatures and other requirements provided for in the case of private parties.

ART. 8. Before making a loan on precious metals, articles of commerce, and products of the country on deposit, the value of the same shall be assessed by experts appointed by the bank officials. The bank will in no case be responsible for waste or damage to articles of commerce and products of the country deposited with it.

ART. 9. Buildings (fincas) upon which mortgages are to be executed to the bank, must show a perfect title and be free from all incumbrances and responsibility, and, in case they are city property, they must be constructed of strong materials (materiales fuertes) and covered by insurance.

ART. 10. Articles covered by bills of lading upon which the bank is to make loans shall be consigned to such person as the bank shall designate at the point of destination, which person shall deduct the current commissions and carry out the orders of the owners thereof in order to effect returns, but directing them to the bank for the final settlement of the transaction.

Should the articles be lost, the bank may proceed, at its election, against the owner thereof for the amount agreed upon, or against the company insuring the same for the amount of the insurance.

ART. 11. For deposits made in the bank the proper officers thereof (administracion) shall issue suitable receipt setting forth: First,

the name and domicile of the depositor or official ordering the deposit; second, the nature and value of the deposit and whether it consists of ingots or jewels of gold or silver, its weight and particular qualities; third, the date of the deposit, and the number of its register.

ART. 12. The officers of the bank (administracion) shall be the judge whether it allow or refuse the discounting of bills of exchange or drafts and promissory notes presented to it, as also requests for loans made to it, and such other transactions as may be proposed, and in no case shall they be obliged to give the reasons for their ruling.

ART. 13. The interest on discounts and loans and also on deposits, collections, mortgages, etc., shall be fixed every six months by the governing board of the bank with the approval of the protector; and the expenses of assessment of articles given as security, and such other expenses as such transaction may require, shall be charged to the borrower.

ART. 14. The bank shall have the power to order the sale of securities (colateral-garantías) consisting of securities or effects (valores ó efectos) three days after having called upon the debtor, simply by written notice, to replace the loss in such securities (colateral-garantías), should he not then do so, or after the expiration of the period for which the loan was made should he not have paid the amount thereof. Such sales shall be made at extrajudicial public sale, at which transaction a notary public, a lawfully appointed exchange agent, or duly licensed broker shall assist, without the necessity of a judicial order to that effect; and in order that there be no obstacle in such transfers and that the bank may at all times make the sale without the intervention of the debtor, it shall be set forth in the record of the loan that the articles given as security shall be considered as transferred to the bank, without other formality, by the mere fact of having delivered them to the same as such, and to date from the day on which the bank shall have acquired the right of sale according to the first paragraph (sentence) of this article.

Nonnegotiable securities (valores nominatives) must be transferred in due form; nevertheless (but) the directors of the bank shall give to the parties interested a receipt setting forth the sole and exclusive purpose of such transfer.

Should the proceeds from the sale of securities not fully cover the amount loaned, with interest and expenses thereon, the bank may proceed for what remains due against the debtor; should the proceeds exceed said amount, the excess, should there be any, shall be returned.

In the case of loans made on bills of lading, the borrowers shall be required to replace the security whenever the same is reduced by more than ten per cent of its value; and if upon the maturity of the obligation the same have not been satisfied, and the ship bearing the effects or merchandise that constitute the security should not have arrived, the bank may proceed against the debtor or wait the arrival of the ship in order to make a sale of said securities, with the understanding, however, that should the bank elect the former remedy it shall not thereby lose its right to proceed against the security at such time and in such manner as may be proper.

ART. 15. The bank shall have the exclusive right of issuing bank notes throughout the archipelago, payable at sight to bearer, to three times the amount of the capital stock issued and outstanding (capital efectivo que tenga apartado), subject to the provisions of article 180 of the Code of Commerce, or, in other words, whenever it has in its vaults, in coin, a fourth part, at least, of the amount of deposits, current accounts in coin, and bank notes in circulation. The bank notes which may be issued shall be of five, ten, twenty-five, fifty, one hundred, and two hundred pesos each.

ART. 16. The counterfeiting (falsificación) of the notes of the bank, and the wilful passing of counterfeit or forged bank notes, shall be prosecuted by the State with the same activity and energy as in the case of a public crime, and punished in accordance with law. The bank may join as a party in the prosecution should it so desire.

ART. 17. The bank shall open a branch (sucursal) in Iloilo and such other points in the archipelago as the general board of stockholders may deem necessary. Branches in points other than Iloilo may be established only when the bank has a capital of two million pesos, and after first having had the approval of the colonial minister with regard to the place where the branch is to be situated.

In each branch there shall be placed on deposit such amount of the bank notes as the importance of its operations may require, and such bank notes shall be identified by a seal indicating the place to which they belong.

Such branches may be closed down when in the judgment of the governing board of the bank it has been shown they are no longer useful for the object for which they were created, and upon full report to the first general meeting following, and communicating the action of said general meeting to the protector.

Since these branches are a part of the bank, the capital of the bank shall be responsible for the legal effects of the obligations which they lawfully contract.

These branches shall be governed by instructions drawn by the governing board, subject to these statutes.

ART. 18. Foreigners may acquire stock in the bank and engage in all other transactions of exchange and draft (operaciones de cambio y giro) relating to the bank, in the same manner as Spanish subjects (nacionales); but they shall not be allowed to hold any office in the government and administration of the bank unless they possess naturalization papers and are domiciled in the country. Securities deposited in the bank belonging to foreigners shall not be subject to attachment, confiscation, or seizure (represalia) in case of war between their respective nations.

ART. 19. Whenever doubts or controversies arise in matters concerning the internal government of the bank or compliance with its statutes or by-laws, the same shall be settled by the protector as governor (gubernativamente) upon first hearing the report from the governing board.

ART. 20. The Banco Español-Filipino may be called upon (adquiere) to aid the treasury of the archipelago by a gratuitous loan up to the amount of five hundred thousand (P500,000) pesos, when the capital of the bank does not exceed one million five hundred thousand (P1,500,000) pesos, and with a third part of its capital when it

does exceed this amount. In either case the time for which the bank may be obliged to advance the 500,000 pesos or third part of its capital, shall not exceed six months in each calendar year (año natural); and this amount may be loaned in one or several sums, either at one time or at distinct periods. In all other transactions which the treasury of these islands may have with the bank, the interest shall be one and one-half per cent less than the current discount given the public, and said interest shall in no case exceed five per cent per annum.

## TITLE II.—*Capital stock (capital social) and shares.*

ART. 21. The Banco Español-Filipino, established with a capital of one million five hundred thousand (₱1,500,000) pesos, may increase its capital to three million (₱3,000,000) pesos, according as the commercial needs and the development of its operations may require, and upon first having the consent of the general board of stockholders.

ART. 22. Both the capital indicated of one million five hundred thousand (₱1,500,000) pesos, and any increase of the same that may be made up to the sum of three million pesos, shall be represented by shares of the face value (acciones nominativas) of two hundred (₱200) pesos each.

ART. 23. Said capital of one million five hundred thousand (₱1,500,000) pesos shall be (está) represented by 7,500 shares at 200 pesos each.

The shares that may be issued until the capital of three million pesos authorized to the bank is completed shall be issued when the general board (of stockholders) authorizes the increase of the capital, in which case the issue shall be made upon payment of (satisfaciéndose) 200 pesos for each share, plus such percentage at least as corresponds to such share with respect to the amount (importancia) of reserve funds on hand in the bank on the date of issue.

ART. 24. The bank shall maintain a legal reserve fund of fifteen per cent of its capital stock issued and outstanding (capital efectivo). This fund shall be subject to the same obligations as said capital, and it shall be made up of the net profits resulting from the operations of the bank after deducting the annual interest of the capital, which in no case shall exceed eight per cent.

Besides this fund, the bank may create another voluntary reserve fund to cover the dividends, when the net distributable profits do not reach eight per cent of the amount represented by each share (capital de cada accion). This fund shall in no case be applied to increasing the capital of the bank.

ART. 25. The shares of stock of the bank shall be represented by inscribing (inscripciones) the name of a given person or entity in the bank register, and by issuing to the owners thereof stock certificates (títulos nominales). In the same way the new stock for the increase of the present capital of the bank shall be issued, to the amount and for the periods fixed by royal decree of February 7, 1896. (See Alcubilla, Appendix 1896, p. 161.) The governing board of the bank shall determine such method as it may deem proper for effecting the issue.

ART. 26. Bank shares shall be transferable in all the ways known to the law, except the one thousand which were issued as nontransferable and inalienable, which shall retain their character so long as the corporations that possess them do not request their transfer (enajenacion), and His Majesty's Government direct the same. In order to attach shares, an order from competent authority shall be necessary.

ART. 27. A transfer of shares, whatever be the method of making the same, must be made to appear by a declaration made before a proper officer of the bank (administracion del banco) in person by the party transferring the same to another, or by a special attorney who shall sign in the register of said bank, showing said transfer, and, upon first presenting in the office of the bank the original certificate (titulo original de inscripcion), whereupon a new certificate will be issued to the transferee.

When the transfer of the ownership of shares is the result of hereditary succession, and there is but one heir, an affidavit (testimonia de la clausula de institucion), or the judicial decree declaring said heir to be the heir of the intestate, shall be presented at the bank so that he may be known as the successor to the ownership of the shares of his ancestor.

When there are many persons interested in the inheritance, the successor to the shares shall present, apart from the substitution or declaration of the heir, proof of his interest in the part claimed (parte necesaria).

ART. 28. The responsibility of stockholders for the transactions of the bank shall be restricted to the value of the shares possessed by them, in harmony with the provisions of the code of commerce relating to corporations (sociedades anonimas).

ART. 29. The bank shall not hold any more real property (bienes inmuebles) than is necessary for its service. It shall be allowed, nevertheless, to acquire real property adjudged to it in payment of debts when such debts can not be settled advantageously in any other way; but it should dispose of the same as soon as practicable.

### TITLE III.—*Concerning the application and distribution of the profits of the bank.*

ART. 30. The profits or gains resulting from the operations of the bank, after deducting the expenses of administration, and, when proper, such part as corresponds to the legal reserve fund, shall be applied as follows: Ten per cent to the directors (direccion), and five per cent to the governing board (junta de gobierno); the same to be distributed in the manner provided in the by-laws (reglamento). The remaining eighty-five per cent shall belong as a whole to the stockholders, and shall be divided among them according to the number of shares held by each.

ART. 31. These profits shall be distributed in dividends, which shall be declared every semester, as follows: Should the liquidated, distributable profits not exceed eight per cent per annum on the par value of each share, the whole shall be distributed; should there be an excess over said eight per cent, it shall be divided one-half to the stockholders and one-half to the legal reserve fund mentioned in

article 24, until the same is completed; after which the surplus shall be divided amongst the stockholders, in whole or in part, or it may be used for the creation of the voluntary reserve fund, also mentioned in said article, as the governing board may deem best.

ART. 32. The balance sheet provided for in article 157 of the code of commerce shall be drawn up and published monthly.

**TITLE IV.**—*Concerning the government and administration of the bank.*

ART. 33. The high direction and supreme control of the bank shall be in the protector, the governor-general of the Philippine Islands, who may temporarily delegate his powers as protector, to such an extent as he may deem proper, to some person in his confidence who is a councillor of the administration (consejero de administracion), or who holds an administrative rank equivalent thereto.

ART. 34. The government and administration of the bank shall be conducted, subject to the supervision of the protector or of the person to whom he has delegated his powers, in accordance with article 33, by the general board of stockholders (junta general de accionistas), by the governing board (junta de gobierno), and the board of directors (una direccion), who shall have the powers granted them respectively by these statutes.

**TITLE V.**—*Concerning the authority of the protector and powers of the person to whom he temporarily delegates his duties.*

ART. 35. The following shall be the powers of the protector: First. The appointment of directors (directores), the secretary, and one of the syndics (sindicos) from among the three persons whose names may be submitted to him by the general board of stockholders. Second. To appoint, on his own motion, the other syndic, without the necessity of having such names so submitted. Third. To direct (determinar) the issue of shares. Fourth. To approve the rate of interest to be collected by the bank on discounts and loans made by it. Fifth. To suspend or discharge from their respective offices directors and voting members (vocales) of the governing board, when there is sufficient motive, or well-founded cause for doing so. Sixth. To decide in his capacity as governor such doubts and controversies as may arise concerning matters relating to the internal government of the bank, or the observance of the statutes and by-laws thereof. Seventh. To order the revision of the statutes and by-laws of the bank whenever he deems it proper, or on request of the general board of stockholders. Eighth. And finally, to exercise, as the representative of His Majesty's Government, the powers granted him by law with regard to protected and privileged public establishments.

ART. 36. The person to whom the protector delegates his powers, and in lieu thereof the director on duty (director de turno), shall have the following powers:

First. To call general meetings, both ordinary and extraordinary, upon motion to him by the governing board, for sufficient cause.

Second. To convene the governing board in extraordinary session whenever he deems it necessary, either on his own motion, or at the request of one of the syndics.



Third. To preside at the general meetings and at the meetings of the governing board, without vote.

Fourth. To direct the suspension, on motion of one of the sindics, of resolutions passed at the general meetings and by the governing board, when the same are not found to be in accord with the statutes and by-laws.

Fifth. To exercise a supervision over the entire bank service, and submit to the protector such recommendations and reports as he may deem proper concerning its condition, and proposing such alterations and modifications as he may deem necessary for the better management of the establishment.

Sixth. To be present at the making of the monthly inspection ("arqueo") and balance ("balance"), signing his approval of the same in the proper book.

Seventh. To draw up special reports requested of him by the protector concerning the business of the bank, making beforehand such inspections of the registers, documents, and papers of the establishment as he may deem necessary.

#### TITLE VI.—*Concerning the powers of the general board of stockholders.*

ART. 37. The stockholders of the bank shall be represented at the general meeting by those among them who are owners or beneficiaries of at least ten shares, inscribed in their favor three months before holding the meeting, and this shall be determined by reference to the registers of the establishment.

Stockholders may be represented at general meetings by proxies consisting of such persons as they may elect, whose appointment shall be made by executing power of attorney before a notary public. (Free.)

Stockholders who do not enjoy full legal capacity, such as married women, minors, etc., or possessing the character of legal entities, associations, corporations, etc., shall be represented at the general meetings and also in all other matters relating to the bank by their legal representatives.

ART. 38. The absence of stockholders from the general meetings shall deprive them of the right to contradict and oppose the action of the majority, provided that such action be not contrary to the provisions of these statutes.

ART. 39. Members present at the meeting who possess ten shares shall have one vote, those possessing twenty shares shall have two votes, but in no case shall any stockholder have more than two votes, be the number of shares possessed by him what it may.

ART. 40. The general meeting of the (stockholders of the) bank shall be regularly held on the third day of February of each year, and shall continue, if necessary, during the two following days, but no longer, except upon authority granted by the protector.

ART. 41. The general board (of the stockholders) of the bank shall have power: First. To appoint the councilors of the governing board. Second. To appoint the cashier from among three names submitted by the governing board. Third. To propose to the protector, through the directors of the bank (dirección del banco), three names each for

the positions of directors, secretary, and one of the *sindics*. Fourth. To inform themselves of the situation of the bank through a report which shall be presented by the governing board, and of the general balance of annual accounts which they shall see and examine. Fifth. To act on recommendations made by the governing board, relating to the better order and prosperity of the establishment, in accordance with the statutes and by-laws. Sixth. To draw up such statements as they may deem proper to be submitted to the protector concerning the improvements and reforms that might be made in the bank, the same to be transmitted through the director on duty (*director de turno*). Seventh. Every member of the general board (of stockholders) may present before said meeting, in writing, such suggestions as he may deem proper to the welfare of the bank, but such recommendations shall not be discussed until the next following meeting and until the action of the governing board thereon has been heard. Eighth. To direct the increase of the capital and the manner and conditions subject to which the same is to be made. Ninth. And to exercise the powers and attributes expressly given to them by these statutes and in the by-laws.

ART. 42. A general meeting (of the stockholders) of the bank may be convened in extraordinary session: First. When the number of members of the governing board has been reduced to one-third by death, or other legal impediment which may make it impossible for the members thereof to perform their duties. Second. Whenever one of the *sindics* shall request an extraordinary session for the purpose of considering grave and urgent matters of interest to all the stockholders, and the director on duty (*director de turno*) shall consider the same necessary.

ART. 43. The resolutions passed at the general meeting (of the stockholders) of the bank upon the matter of appointment of personnel will be had by secret vote and will require an absolute majority of votes. Should an election not be obtained on the first ballot, a second ballot will be taken on the persons who were voted for on the first ballot; and should none of these obtain a majority, a third ballot will be had on the two persons who obtained the greatest number of votes on the preceding ballot. In case of a tie, the senior (in age) candidate shall be held to be elected.

ART. 44. In transacting business of any other nature the vote of the meeting will be had in public, and a majority of the votes shall govern.

#### TITLE VII.—*Concerning the governing board (junta de gobierno).*

ART. 45. The governing board of the bank shall consist of two directors who shall be honorary members thereof, six councilors (*conciliaros*), and one *sindic* appointed upon the recommendation of the general board, and another *sindic* to be named by the protector. Members may be reelected to these positions.

ART. 46. The six councilors and the *sindic* appointed by the general board shall perform their duties, two councilors being added each year.

The *sindic* appointed by the Government (protector?) shall hold office for four years.

The directors shall hold office for two years, the senior member being replaced annually in accordance with the provisions of number one of article 35 and number three of article 41.

ART. 47. Members of the governing board must have on deposit in the vaults of the bank (en la caja) during their term of office at least ten shares of stock.

ART. 48. Both the councilors (conciliaros) and the sindics shall be entitled in respect of these offices to an attendance fee for all sessions held by the governing board. The allowance (cuota repartible) is fixed in article 30 herewith.

ART. 49. The duties of the governing board shall be (son): (1) To issue stock certificates (inscripciones de las acciones del Banco). (2) To determine (proponer) the number of bank notes to be issued. (3) To fix the percentage (premio) that shall be required on discounts and loans. (4) To draw up private lists (listas reservadas), in alphabetic order, of the firms which it considers creditable for discounts, setting forth the amount of credit to be extended to each one. (5) To appoint commissioners (comisionados) and correspondents (corresponsales), and to designate the points where they are to be stationed. (6) To direct the establishment of branch banks (succursales) at such points as are suitable both to the public interest and the bank, in accordance with article 17 of these statutes. (7) To approve, on the proposal of the directors (dirección), transactions had by the bank with State establishments (establecimientos del estado). (8) To see to it that in all the offices and dependencies of the bank the statutes, by-laws, orders, and resolutions in force are observed. (9) To examine at each session the operations of the directors (dirección) and the movement of the bank during the week. (10) To appoint, on recommendation of the directors (dirección), a bookkeeper and all the minor employees of the bank, and also all those of such branch banks as it may establish. (11) To suspend for grave and sufficient cause any employee of the bank, and to discharge such as are not appointed by the protector. (12) To draw up the annual report (memoria anual) concerning the operations of the bank, which shall be read before the general meeting. (13) To examine and audit the accounts to be made each year by the directors (dirección), and to present the general balance. (14) To declare every semester, in accordance with such balance and the state of the voluntary reserve fund, the dividend to be paid to the stockholders. (15) To examine into and take under advisement recommendations made by the members of the general board for the welfare of the bank, and present the same, with their report thereon, to the next general meeting. (16) To make, of its own motion, to said general meeting all suggestions that it deems proper for the extension and prosperity of the establishment.

ART. 50. The sindics shall only have a voice (voto consultivo) in the governing board, together with the following powers: (1) To make complaint concerning any abuse they may observe in the operations of the bank and in the management of its offices. (2) To examine and pass upon all reports, accounts, and balances of the bank. (3) To oppose the carrying out of resolutions passed by the governing board which are contrary to the statutes of the bank or prejudicial to its interests, and to make report to the director on duty (director de turno) for the purpose of having the same suspended, and to report to the protector when they consider it necessary. (4) To oppose at

all times the issue of a greater number of bank notes than the whole number authorized by these statutes.

All complaints made by the sindics shall be inscribed literally in the minutes of the governing board.

ART. 51. The sessions of the governing board shall be held whenever the director on duty (director de turno), of his own motion or at the request of one of the sindics, shall deem them necessary.

ART. 52. No action whatsoever shall be taken at the sessions of the governing board save when they are present at least four voting members and one of the sindics.

ART. 53. Resolutions of the governing board must be passed by a majority of the votes of the members present, and, in case of a tie, the opinion of the president-director on duty (presidente director de turno) shall decide.

ART. 54. The secretary of the bank shall be present at all the sessions of the governing board, without voice or vote, and shall draw up the minutes, which shall be signed by the president, one councilor, and the secretary himself.

#### TITLE VIII.—*Concerning the directors of the bank (direccion del banco).*

ART. 55. The administration of all the affairs of the bank and the control of its operations shall be in charge of the directors (directores), assisted by a secretary who shall perform such duties as they may direct. When by reason of sickness or absence of a director, or when there is a vacancy in this office, the governing board shall immediately submit, through the directors of the bank (direccion del banco), the names of three eligible persons, from amongst whom the protector shall appoint those who are to fill the office temporarily until the calling of the next general meeting of the stockholders.

ART. 56. Any person not exercising full ownership over twenty shares of stock deposited in the vaults (caja) of the establishment, shall not be allowed to hold office as a director of the bank. (Free.)

ART. 57. The directors shall receive the compensation designated in article 30, which shall be divided equally between them.

ART. 58. The powers of the directors of the bank shall be (son):

- (1) To direct all the operations of the bank and to give orders and instructions to all the employees thereof who are to take part in said operation.
- (2) To execute (celebrar) all contracts and perform all transactions undertaken by the bank in accordance with its statutes.
- (3) To arrange with the agents of the Government the exchange transactions (operaciones de giro) which the bank is to carry on, subject to the approval of the governing board.
- (4) To carry on with the authorities, public officials, and private corporations such correspondence of the bank as relate to its administration.
- (5) To authorize with their signatures all administrative acts, and obligations and documents issued by the bank.
- (6) To give their consent and approval to all discounts and loans that are to be made.
- (7) To institute all judicial proceedings that may be necessary for the collection of the debts (creditos), and the preservation of the rights of the bank, and to appear in court in the name thereof.
- (8) To propose to the governing board for its action the course to be pur-

sued in important business and transactions not provided for by these statutes. (9) To propose to the governing board a bookkeeper, and to make known to the same the individuals they consider suitable for the office of cashier, so that a list of three names may be prepared to present to the general meeting of stockholders, to which body pertains the right to appoint this employee. (10) To appoint all subordinate employees (dependientes) and servants of the bank. (11) To watch over, as the immediate heads of the establishment, the conduct of all its employees, important and otherwise, in the performance of their duties, and to temporarily suspend for just cause those who are delinquent therein, except the secretary, cashier, and bookkeeper, who can only be suspended by the governing board. (12) To call the regular general meetings and such extraordinary general meetings as may be proposed for sufficient cause by the governing board, and also to convene the governing board. (13) To preside over the general meetings and the meetings of the governing board, with a vote. (14) To order the suspension of the resolutions of the governing board on motion of one of the syndics when the same are found not to be in harmony with the statutes and by-laws. (15) To make visits of inspection throughout all the offices of the bank, and to address to the protector such recommendations as they may deem proper concerning its condition, proposing to him suitable alterations or modifications for the better government of the establishment. (16) To be present at the making of the monthly inspection and balance, signing their approval in the proper book. (17) To sign stock certificates (rubricar los títulos de inscripción de acciones) and to authorize with their signatures notes issued payable to bearer. (18) To draw up special reports requested of them by the protector concerning the affairs of the bank, first making such inspection of the registers, documents, and papers of the establishment as they may deem necessary. (19) To examine the report to be made to the general meetings relative to the situation of the bank, and to visé the same before it is read to the meeting, requiring in advance such proofs of the correctness of its contents as they may deem necessary.

The powers designated in numbers 12, 13, and 14 shall not be exercised by a director so long as there is a delegate of the protector in office.

ART. 59. One of the directors shall represent the bank and he shall exercise the powers and have the attributes granted the directors (dirección) by article 58 of these statutes, and he shall authorize with his signature all the acts, contracts, and operations that may be made.

In the discharge of this duty both directors shall periodically take their turn.

ART. 60. In the case of any judicial proceeding (demanda judicial) other than for the collection of bank accounts (creditos del banco) the directors must first obtain the approval of the governing board before acting therein.

ART. 61. The directors shall be accountable (responsables) to the bank for all operations carried on by them beyond their powers, or contrary to the statutes, by-laws, and resolutions in force.

**TITLE IX.**—*Dissolution and winding up of the bank.*

ART. 62. The bank shall be dissolved (1) upon the expiration of the term of its life, except an extension be had; (2) upon the loss of one-half of the capital subscribed, in which case the governing board shall immediately call, within as short a period as possible, an extraordinary general meeting to report the condition of the bank.

The general board may direct that the bank shall continue, in which case it may determine the necessary steps to be taken to fix the status of the bank, provided those present and voting represent two-thirds of the capital.

ART. 63. A dissolution having been decided upon, the winding up of the bank's affairs shall be in charge of the governing board then in office, except said governing board should determine to appoint receivers (*liquidadores especiales*), in which case said receivers shall receive such compensation as the governing board may direct.

ART. 64. While the winding up of the affairs of the bank continues the powers of the general board shall remain intact.

This board shall specially have the power to approve the accounts of the receivership (*liquidacion*), and to give a discharge.

The amount realized after paying the debts and expenses shall be distributed *pro rata* amongst the stockholders.

**TITLE X.**—*General provisions.*

ART. 65. The bank shall not furnish any information concerning the funds in its possession on a current account, or on deposit, belonging to a given person, save by virtue of a judicial order.

ART. 66. Dividends declared and not called for within three years following the date upon which they were available shall draw in favor of the bank the interest specified for voluntary deposits in money, commencing from the expiration of said period.

ART. 67. Questions arising between the bank and one or more stockholders, or between stockholders and the governing board, shall be submitted to the decision of arbitrators (*amigables componedores*) appointed in accordance with the law of civil procedure, in accordance with the provisions of which said arbitration shall be had.

Approved by His Majesty, Madrid, July 14, 1897.

CASTELLANO,  
*Colonial Minister.*

A true copy.

CABELLO,  
*Subdirector.*

## NEW STATUTES OF THE BANCO ESPAÑOL-FILIPINO.

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AN ACT To confirm certain rights and franchises of the Banco Espanol-Filipino and to amend its statutes.

Whereas the Banco Español-Filipino is a bank incorporated under a charter granted by the Kingdom of Spain conferring certain privileges and rights upon the bank, and especially that of the exclusive right of issuing and circulating notes of the bank to an amount equal to three times its capital stock, which was authorized to be three million of pesos, equivalent to \$1,500,000 American currency; and

Whereas the bank has a paid-in capital of 1,500,000 pesos and claims to have in addition an unimpaired surplus of 900,000 pesos; and

Whereas the bank has issued, and has now in circulation, its circulating notes amounting substantially to 1,500,000 pesos; and

Whereas the authorities of the bank contend that under the American sovereignty, by reason of the guaranty of the Treaty of Paris, they may exercise the same exclusive privilege with respect to circulating notes which was given them under the Spanish charter, and, therefore, that they may increase their capital stock to 3,000,000 pesos and issue notes to the amount of 9,000,000 pesos; and

Whereas the representatives of the bank contend that the Philippine government has violated the exclusive right of the bank above set forth in issuing so-called silver certificates secured by a deposit of similar pesos in the treasury of the islands; and

Whereas the Philippine government, while recognizing as valid the present circulation, has heretofore denied the right of the Philippine bank under its charter to issue notes equal to three times its capital stock, on the ground that such note-issuing franchise was an exercise of sovereign power which was not transmitted or guaranteed by the treaty of Paris, and has, therefore, imposed a prohibitory tax of 12 per cent on any notes issued beyond the actual paid-in capital stock of the bank, because of its belief that the certain payment or redemption of such notes will not be properly secured under the provisions of the Spanish charter; and

Whereas the bank now threatens to test in court the validity of its franchise and the validity of the prohibitory tax, and relies upon the action of the Congress of the United States in confirming a similar charter granted to the Bank of Porto Rico; and

Whereas the Philippine government has no objection to the issue of circulating notes by this bank to the extent permitted by the Spanish charter, provided only that it shall not be exclusive, and that proper provision shall be made for securing the redemption or payment of such notes:

Now, therefore, by way of compromise of the questions arising between the Banco Español-Filipino and the Philippine government in respect to its charter, and the rights already conferred thereby, the Philippine government, by virtue of the general powers conferred upon it under section 74 and other sections of the act of July 1, 1902, does hereby amend and confirm the Spanish charter of the Banco Espanol-Filipino as the same is hereinafter set forth: *Provided, however*, That nothing in this act shall affect the validity of acts done and rights and causes of action which have arisen under the existing statutes of said bank in its relations with individuals, firms, corporations, and associations in the conduct of the banking business, except that validity is hereby given to all acts heretofore performed by the bank which would otherwise be legal, and whose validity might be questioned by reason of the failure of the bank to comply with its statutes in regard to the participation of the government in the management of the bank: *And provided further*, That the charter and statutes of the bank hereinafter set forth by way of amendment and confirmation shall not take effect until the same shall be duly and in legal form accepted by the proper authorities of the bank representing the corporation.

#### ARTICLES OF INCORPORATION OF THE BANCO ESPANOL-FILIPINO.

**TITLE I.**—*Name, constitution, title, objects, domicile, and duration of the corporation.*

##### ARTICLE I.

That the Banco Espanol-Filipino, founded in 1851 by a joint stock company duly authorized to transact business, and reorganized by virtue of royal decree of February 7, 1896, shall hereafter be governed by these articles of incorporation.

##### ARTICLE II.

That the Banco Espanol-Filipino shall be a body corporate, with power to adopt a corporate seal, and shall have succession for the period herein provided; that its corporate existence shall be extended for twenty-five years from January 1, 1903. This period may be extended at the request of the majority of the stockholders of the bank, provided such request be made at least one year before the expiration of the twenty-five years mentioned. It may make contracts, sue and be sued, complain and defend, in any court of law or equity, as fully as a natural person.

##### ARTICLE III.

That the bank is authorized to change its name, by vote of the stockholders in general assembly, to "The Bank of the Philippine Islands."

##### ARTICLE IV.

The head office of the corporation shall be located in the city of Manila, but branches of the bank now established may be continued, and others may be established or discontinued in other parts of the Philippine Islands, subject to the approval of the governor-general



of the Philippine Islands, and agencies of such bank may be established in the United States and in foreign countries, subject to the approval of the governor-general of the Philippine Islands, and in accordance with the laws of the United States or such foreign countries.

#### ARTICLE V.

The bank is authorized to engage in the following classes of transactions:

1. Discounting bills of exchange whose maturity does not exceed six months and commercial promissory notes whose maturity does not exceed one year.

2. Making collections of drafts and other current negotiable paper and advancing money thereon.

3. Receiving deposits and opening current accounts in currency or upon the deposit of public, provincial, municipal, industrial, or railway securities issued by legally constituted corporations.

4. Receiving and caring for money deposited in trust, arising from legacies, voluntary and other trusts, and judicial decrees, or in any other manner.

5. Receiving in the same manner as under paragraph 4 gold and silver bars, jewelry with or without precious stones, and stocks and bonds and other securities issued by corporations.

6. Negotiating or drawing bills of exchange, whether domestic or foreign, under the formalities prescribed by the Code of Commerce as modified by the provisions of this act.

7. Dealing in gold and silver.

8. Making loans upon the security of deposit with the bank, as collateral, of precious metals, articles of commerce, products of the country, negotiable securities, and industrial and commercial bills which are easily and safely realized upon at any time: *Provided*, That all such loans shall be made under regulations established by the general board of directors. Such collateral securities shall be accepted only at a rate not exceeding three-fourths of their market or appraised value, except that when the person or legal entity to which a loan is to be made is, in the judgment of the general board of directors, sufficiently solvent, apart from the collateral furnished, loans may be made to the amount of ninety per cent of the market value of said collateral security, provided that said security is easily convertible into cash and the person to whom the advance is made is a client of the bank; but said person shall, upon the demand of the bank, pay in cash or deposit first-class securities to cover any depreciation in the market value of the securities furnished.

9. Making loans on bills of lading, when invoices and insurance policies satisfactory to the bank are attached thereto: *Provided*, That the amount of such loan shall not exceed three-fourths of the current market value of the articles covered by such bills of lading.

10. Granting current credit accounts in favor of clients who have been approved by the general board of directors, such accounts paying to the bank a commission upon the sums upon which they are entitled to draw, in addition to the interest upon amounts actually used.

11. Buying and selling or otherwise negotiating securities, and borrowing money upon securities owned by the bank.

12. Making loans upon real estate, when mortgage certificates running for a definite term can be sold for the amounts thus loaned; but the amount invested at any one time in such loans, or in any loans upon real estate security, shall not exceed twenty per centum of the capital of the bank, and if such investments are now in excess of that sum they shall be reduced as rapidly as the interests of the bank are deemed to justify, under the direction of the treasurer of the Philippine Islands.

13. Making loans upon vessels which are insured and free from encumbrance, provided such loans do not exceed half the value of the ship nor run for more than one year. Such loans shall not exceed ten per centum of the paid-up capital of the bank.

14. Making loans to firms and corporations established in the Philippine Archipelago and which, in the opinion of the general board of directors, are of undoubted solvency, provided such loans shall not exceed ninety days in duration.

15. Undertaking on commission the purchase and sale of securities and such other banking operations, under regulations established by the general board of directors, as may be within the incidental powers of a bank; but no powers shall be exercised which are not expressly granted by this act if such exercise is prohibited by the governor-general of the Philippine Islands.

16. Preparing, issuing, and circulating bank notes under the provisions of this act.

#### ARTICLE VI.

The bank shall not make any loan or discount on the security of the shares of its own capital stock, nor be a purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall be sold or disposed of at public or private sale within six months from the time it is acquired.

#### ARTICLE VII.

All notes and bills of exchange discounted by the bank must bear at least two signatures of known solvency, one of which must be a resident of the locality of the transaction and must comply in other respects with the provisions of the code of commerce, except that such transactions may, with the approval of the president of the bank, be for a longer period than ninety days, and one signature may be dispensed with when loans are made on negotiable securities, as provided by paragraph eight of Article V.

Warrants or drafts drawn by the treasurer of the Philippine Islands or of the United States may be accepted without the signatures and conditions required in the case of private parties.

#### ARTICLE VIII.

The total liabilities to the bank of any person, or of any company, corporation, or firm, for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, shall at no time exceed one-tenth of the amount of the capital stock of the bank, actually paid in and unimpaired, and one-tenth part of its unim-

paired surplus fund; but the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

#### ARTICLE IX.

Before making loans on precious metals, merchandise, and goods in warehouse, the value of the same shall be appraised by experts appointed by the officers of the bank, but the bank shall not be liable for any loss, damage, deterioration, or shortage of or to the merchandise so stored, except in cases arising from its default or negligence.

#### ARTICLE X.

All real property upon which mortgage loans are made must have a marketable title and be free from all encumbrances and liens.

Buildings, if city property, must be constructed of substantial material; and in all cases the buildings or improvements upon such real estate shall be insured to at least 75 per centum of their value, and no loans shall be made on real estate to an amount greater than 50 per centum of the value thereof.

#### ARTICLE XI.

Merchandise specified in a bill of lading upon which a loan is made by the bank must be consigned to such person as the bank shall designate at the place of destination, who may deduct the current commissions and charges, and shall comply with the orders of the shipper as to the sale or disposition of the property, and pay the proceeds thereof to the bank to the amount of its loan, charges, and expenses.

In case of loss of merchandise, the bank may proceed, at its option, against the shippers or carriers thereof for the amount of the loan, with all charges and expenses, or against the insurance company insuring the same for the amount of such insurance.

#### ARTICLE XII.

Upon deposits made in the bank of precious metals or merchandise, other than money in current account, the bank shall furnish to the depositor a certificate containing the following particulars:

First. The name and domicile of the depositor or of the authority ordering the deposit.

Second. The nature and value of the deposit, and where it consists of bars or jewelry of gold or silver, the weight and specific qualities thereof.

Third. The date of the deposit and the entry number in the proper books of the bank.

#### ARTICLE XIII.

The officers of the bank shall, within the limitations of this act, be exclusive judges as to the acceptance or refusal of drafts, notes, and bills of exchange submitted for discount, and of all applications for loans and of other business transactions.

## ARTICLE XIV.

The rates of interest on discounts and loans, on deposits, collections, mortgages, etc., shall be fixed every six months by the general board of directors, with the approval of the president of the bank, and such rates, if not contrary to law, shall be those charged in cases where no specific agreement is made, but the bank may change such rates, from time to time, upon notice of one week, and may make other rates by agreement of both parties. All expenses connected with the transaction, including the fees of appraisers, shall be charged to the borrower.

## ARTICLE XV.

The bank may order the sale of collateral security in its custody, consisting of securities or merchandise, or any other thing, three days after having called upon the debtor, by written notice, to increase the amount of such security, if in the meantime he has failed to comply with such request, or after the maturity of a loan if the loan has not been paid. These sales shall be made at public auction, with the assistance of a notary or exchange agent or broker, and without the requirement of any judicial order or process; and in order to avoid delay or difficulty in the disposal of such collateral security, and that the bank may accomplish the sale without interference on the part of the debtor, it shall set forth in the note or evidence of indebtedness that the collateral security given is to be considered as transferred to the bank without any further formality by the fact of delivery, under the conditions set forth therein.

All such securities registered in the name of the owner shall be transferred in due form to the bank, which shall issue therefor a receipt setting forth the terms of the delivery and the purposes for which such transfer has been made.

If the proceeds of the sale of such securities do not cover the full amount of the loan, together with interest and other charges thereon, the bank may proceed against the debtor for the difference, but any amount exceeding the full indebtedness to the bank shall be paid over to the debtor.

Parties obtaining loans on bills of lading must increase the amount of security with the bank whenever a fall of ten per centum takes place in the market value of the merchandise, and if upon maturity of the loan the amount has not been paid or the vessel has not arrived with the merchandise constituting such security, the bank may, at its option, proceed against the debtor or await the arrival of the vessel, in order to make a sale of such merchandise, with the understanding that if the bank shall elect the former remedy, such action shall not impair the right of the bank to proceed against the security itself at such time and in such manner as it may deem proper.

TITLE II.—*Concerning capital stock and shares.*

## ARTICLE XVI.

The bank may increase the amount of its capital stock from time to time to a total amount not exceeding ten million pesos, by a vote of a majority in amount of the stock, at a meeting of the general assembly of the stockholders, by the bona fide sale of new stock for not

less than par in cash, and such increase of capital shall be valid only when the whole amount of such increase shall be paid in and notice thereof shall have been transmitted to the treasurer of the Philippine Islands and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of the bank.

#### ARTICLE XVII.

The existing capital and any increase of the same which may be made shall be represented by shares of the face value of 200 pesos each.

#### ARTICLE XVIII.

In case of an increase of the capital stock by authority of a general assembly of the stockholders, the shares shall be issued upon the payment in full of the price therefor, to be fixed by the bank, not less than 200 pesos for each share, plus such percentage as corresponds to the ratio of the reserve funds or surplus then on hand and unimpaired to the aggregate amount of the capital after such increase of capital.

#### ARTICLE XIX.

The bank shall maintain a reserve fund or surplus of not less than fifteen per centum of its capital stock issued and outstanding, which fund shall be subject to the same obligations as capital, and shall be made up of the net profits resulting from the operations of the bank after deducting the dividends paid upon capital.

The bank may create an additional reserve fund for the purpose of distributing dividends when the amount actually earned in any year does not reach six per centum of the capital stock, but this fund shall not be applied to the increase of the capital stock of the bank.

#### ARTICLE XX.

The ownership of the shares of the capital of the bank shall be recorded in the name of a person, corporation, or other legal entity in the register of the bank, and registered stock certificates shall be issued to the record owners thereof. New issues of capital shall be registered in the same manner, under regulations to be made by the general board of directors.

#### ARTICLE XXI.

Shares of the capital stock may be transferred by a declaration made in person before a proper officer of the bank by the party transferring the same, or by some one having power of attorney to sign said register, upon first presenting to the bank the original certificate, for which, upon cancellation, a new certificate will be issued.

#### ARTICLE XXII.

That the stockholders of the bank shall be subject to no other or additional liability than the amount which they shall have paid or bound themselves to contribute in payment for the shares standing in their names, not exceeding the face value of said shares.

## ARTICLE XXIII.

Stock in the bank may be held by persons and corporations without regard to domicile, and officers and directors may be chosen without regard to nationality, except that a majority of the board of directors shall be made up of citizens of the United States or of the Philippine Islands; but money in current account and securities and other articles of value deposited in the bank which is the property of foreigners shall not be subject to attachment, confiscation, or seizures because of war between their respective nations, except as such processes would lie in the ordinary course of law against citizens of the United States or of the Philippine Islands.

TITLE III.—*Concerning the issue of circulating notes.*

## ARTICLE XXIV.

That the circulating notes of the bank shall hereafter be issued under the following limitations of amount and conditions:

(a) To a present amount not exceeding two million four hundred thousand pesos, which shall represent the paid up and unimpaired capital of the bank and the value of the surplus as ascertained by the governor-general of the Philippine Islands; and in case such capital and surplus shall not, in the opinion of the governor-general of the Philippine Islands, be equal in value to the amount of circulation herein authorized, then said governor-general may require a contraction of such circulation until it shall not exceed the value of the capital and surplus of the bank or the deposit with the treasurer of the Philippine Islands of commercial paper conforming to the statutes of the bank and acceptable to the governor-general, for any excess in the amount of circulation above the value of the capital and surplus as ascertained and determined by him: *Provided, however,* That as a condition precedent of issuing notes to the extent of the paid up and unimpaired capital of the bank and the value of the surplus as ascertained by the governor-general as above permitted said surplus shall be formally treated as a part of the capital of the bank and shares of stock issued therefor to the persons entitled thereto. And said bank is hereby authorized to issue its circulating notes, secured by its capital as herein provided, in equal proportion with each increase of paid in capital stock in cash, not exceeding nine million pesos; and all notes so issued shall be governed by the provisions of this section.

(b) To a present additional amount not exceeding six hundred thousand pesos upon deposit with the treasurer of the Philippine Islands of bonds of the United States, bonds or certificates of the government of the Philippine Islands, bonds of the city of Manila, stock or bonds of railways or mortgage banks upon which interest or principal has been guaranteed by the government of the Philippine Islands, or other securities acceptable to the governor-general of said Philippine Islands, and the percentage of circulation to be allowed upon the face value or market value of each of said class of securities shall be determined by said governor-general of the Philippine Islands. Such notes may be issued at the discretion of the bank, subject only to the condition that the securities deposited shall be

acceptable in character and amount to the governor-general of the Philippine Islands, and without regard to whether issues have been made or applied for under other provisions of this act. And in case of the increase of the paid up and unimpaired capital of the bank from two million four hundred thousand pesos to three million pesos the treasurer of the Philippine Islands shall deliver to the bank the securities deposited with him to cover circulating notes under this paragraph (b).

It being the intention that the total circulating notes issued under this act shall never exceed in amount nine million pesos, representing an equal amount of the paid up and unimpaired capital of the bank.

#### ARTICLE XXV.

All outstanding notes of the bank shall, after January 1, 1908, constitute a preferred lien upon the assets of the bank, except as to such securities as have been specifically deposited under special agreements with public officials for the safe-keeping of public moneys; and any bonds or other securities deposited with the treasurer of the Philippine Islands, as hereinbefore provided, for the security of the circulating notes of the bank, shall be held exclusively for that purpose until such notes shall be redeemed; but the treasurer of the Philippine Islands shall give to the bank powers of attorney to receive and appropriate to its own use the interest and dividends on such securities in the custody of said treasurer; but such powers shall become inoperative whenever the bank shall fail to redeem its circulating notes, and said treasurer of the Philippine Islands, under regulations prescribed by the governor-general, may permit or require an exchange to be made of any of the securities in his custody.

#### ARTICLE XXVI.

The bank shall be held to renounce all claim to the exclusive privilege of issuing notes in the Philippine Islands, or to any other exclusive privilege not set forth in this act; but no laws or regulations shall be made or enforced affecting the bank, or imposing charges or taxation upon it, which shall not apply equally to other banks of a similar type operating under similar conditions, and no bank shall be authorized to issue circulating notes in the Philippine Islands with a paid-up capital less than two million pesos; but this provision shall not preclude the government from granting special privileges to agricultural banks, savings banks, mortgage banks, or other institutions of special types whose principal business is not commercial banking.

#### ARTICLE XXVII.

That the treasurer of the Philippine Islands, and all assistant treasurers and provincial and municipal treasurers and other public officials, shall be directed to receive the circulating notes of the bank for public dues so long as said circulating notes are paid in the lawful money of the Philippine Islands or of the United States, without discount and on demand, at the bank and its branches.

## ARTICLE XXVIII.

That the notes issued under the provisions of paragraph (a) of Article XXIV of this act shall pay a tax at the rate of one-half of one per centum per annum; and the notes temporarily issued under the provisions of paragraph (b) of said Article XXIV of this act shall pay a tax at the rate of one per centum per annum, such taxes to be assessed upon the amount of notes actually in circulation and not held in the bank or its branches, at fixed intervals not less frequently than once a month, to be determined by regulations made by the treasurer of the Philippine Islands.

## ARTICLE XXIX.

That whenever the bank desires to withdraw circulating notes which are not in its possession it may deposit with the treasurer of the Philippine Islands in the lawful money of the Philippine Islands or of the United States an amount equal to the face value of the circulating notes which are to be withdrawn and retired, and if such notes are represented by securities in the custody of said treasurer he may surrender such portion of said securities as, in his opinion, will represent a just proportion of the securities held to secure circulating notes, and thereupon the taxes imposed by this act upon circulating notes shall cease upon an amount thereof equal to the amount of lawful money deposited, and such lawful money shall be repaid from time to time to the bank upon the presentation and surrender to said treasurer of the Philippine Islands of notes which have been received or redeemed.

## ARTICLE XXX.

That the circulating notes of the bank may be issued in denominations of 5 pesos, 10 pesos, 20 pesos, 50 pesos, 100 pesos, and 200 pesos, and shall express upon their face the promise of the bank to redeem them on demand in lawful money of the Philippine Islands or of the United States, attested by the signatures of the president or vice-president and cashier.

## ARTICLE XXXI.

That the bank shall at all times have on hand, in lawful money of the Philippine Islands or of the United States, an amount equal in value to at least 25 per centum of the aggregate amount of its notes in circulation and in addition thereto 20 per centum of its deposits in current accounts which are payable on demand; provided, however, that this requirement shall not apply to the notes issued under paragraph (b), Article XXIV above.

## ARTICLE XXXII.

That the circulating notes of the bank shall hereafter be issued to the bank by the treasurer of the Philippine Islands, who shall make requisitions upon the Bureau of Insular Affairs, at Washington, for such a supply as may be necessary to anticipate reasonable demands,



and he shall keep such notes in his custody in the treasury of the Philippine Islands; but said notes shall not have validity as currency until the seal of the bank and the signatures of its officers duly authorized to perform such functions are attached.

*TITLE IV.—Concerning the powers of the general assembly of the stockholders.*

ARTICLE XXXIII.

The stockholders of the bank shall be represented at its general assembly by those among them who are owners of, or who represent, at least ten shares of the capital stock registered in their names at least two months before the meeting as shown by the registered list of stockholders.

Stockholders may be represented at general meetings by proxies designated by them, but the appointment of such proxies shall be valid only when proper power of attorney is executed before a notary public.

Stockholders not possessing full legal capacity, as married women, minors, et cetera, or possessing the character of corporations, associations, or other legal entities, shall be represented at the general meetings and in all other matters relating to the bank by their legal representatives.

ARTICLE XXXIV.

One vote in the general assembly of the stockholders shall be allowed each ten shares of the capital of the bank actually represented by the owner thereof or by duly authorized proxy.

ARTICLE XXXV.

The general assembly of the stockholders of the bank shall be held on the second Tuesday of February in each year, and may be adjourned from day to day until its business is concluded.

ARTICLE XXXVI.

The general assembly of the stockholders shall have the following powers:

1. To elect the members of the general board of directors.
2. To inform themselves of the condition of the bank through a report presented annually, or oftener, by the general board of directors, and through the annual general balance sheet.
3. To act on recommendations made by the general board of directors relating to the interests of the bank, in conformity with the statutes and by-laws.
4. Any member of the general assembly of the stockholders may present to said general assembly in writing such suggestions as he may deem proper for the welfare of the bank, but such recommendations shall not be acted upon until the next following meeting, nor until the general board of directors has passed upon them.

5. To authorize the increase of the capital stock and prescribe the manner and conditions under which it shall be made, subject to the provisions of this act.

6. To exercise any other powers expressly granted by or reasonably to be implied from these statutes and the by-laws of the bank, and not in conflict with this act.

#### ARTICLE XXXVII.

A general assembly of the stockholders of the bank may be convened in extraordinary session whenever the number of members of the general board of directors has been so reduced as to make it impossible for the members thereof to perform their duties, or whenever five members of the general board of directors shall so request, and the object of such meeting shall be stated in the call.

#### ARTICLE XXXVIII.

In choosing the directors of the bank, at the general assembly of the stockholders, an absolute majority of votes cast shall be required to make a choice, and the vote shall be taken by secret ballot.

#### TITLE V.—*Powers of the board of directors.*

#### ARTICLE XXXIX.

The direction of the bank shall be under the control of a general board of directors, who shall choose a president, vice-presidents, a cashier, and such other officers as they may deem expedient, and said general board of directors may fix the salaries of such officials at such amounts as they may deem proper.

#### ARTICLE XL.

The general board of directors of the bank shall consist of the president and vice-presidents, not exceeding five in number, who shall be members of the board *ex officio*, and not less than eleven nor more than twenty-five directors chosen annually by the stockholders in general assembly. Members of the board shall be eligible for reelection.

#### ARTICLE XLI.

There may be elected by the general assembly of the stockholders, at its discretion, associate directors of branches in the Philippine Islands, in the United States, or in foreign countries, who shall, under regulations made by the general board of directors, meet separately from said general board to consider matters relating to the interests of the branch for which they are elected, but their action shall be advisory only and shall be subject to the approval of the general board of directors at Manila. Such associate directors may or may not, in the discretion of the general assembly, be required to be stockholders in the bank, and shall be subject to removal or termination of their functions at any time upon vote of said general assembly.

## ARTICLE XLII.

Each member of the general board of directors, in order to be eligible as a member, shall deposit with the bank, in trust, before assuming his duties not less than ten shares of the stock of the bank registered in his name. Each such director when appointed or elected shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank, and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, which oath, subscribed by himself and certified by the officer before whom it is taken, shall be immediately transmitted to the treasurer of the Philippine Islands and by him filed and preserved in his office. .

## ARTICLE XLIII.

Members of the board of directors, except the president and vice-presidents of the bank, shall be entitled to a fee for attendance at meetings of said board, which shall be fixed by the general board, but shall not exceed 25 pesos.

## ARTICLE XLIV.

The duties of the general board of directors shall be as follows:

1. To supervise the issue and transfer of certificates of stock and establish regulations therefor.

2. To determine from time to time the number and amount of circulating notes to be issued under the provisions of this act.

3. To fix the rate of discounts and loans.

4. To prepare confidential lists of the firms and corporations to which it considers discounts may properly be accorded, fixing the amount of credit to be extended to each.

5. To appoint agents and correspondents and to designate the points where they are to be stationed.

6. To authorize the establishment of branch banks at such points as will serve the public interest and that of the bank, in accordance with Article IV of these statutes.

7. To ratify, if satisfactory to it, transactions between the bank and the government and other current transactions.

8. To take care that in all the offices of the bank the statutes, by-laws, orders, and resolutions in force are strictly observed.

9. To examine and consider, at each regular meeting, the transactions of the officers of the bank and the operations of the bank.

10. To elect the president, vice-presidents, secretary, and cashiers of the bank.

11. To appoint, on recommendation of the officers of the bank, bookkeepers and minor employees of the bank and of its branches.

12. To remove or suspend employees of the bank, with or without the recommendations of the officers.

13. To draw up the annual report concerning the operations of the bank, which shall be read at the general assembly of the stockholders.

14. To examine and audit the accounts submitted by the officers and to approve the general balance sheet.

15. To declare semiannually, in accordance with such balance sheet and the state of the voluntary reserve fund, the dividend to be paid to the stockholders.

16. To examine into and take under advisement recommendations made by stockholders in general assembly for the welfare of the bank, and to present the same, with their report thereon, to the next general assembly.

17. To make, of its own motion, to said general assembly all suggestions which it deems proper for the advantage of the bank.

#### ARTICLE XLV.

No action shall be taken at the sessions of the general board of directors except when a majority is present.

#### ARTICLE XLVI.

Resolutions of the general board of directors must be passed by the votes of a majority of the members present.

#### ARTICLE XLVII.

The secretary of the bank shall be present at all the sessions of the general board of directors, without voice or vote, and shall draw up the minutes, which shall be signed by the president and the secretary himself.

#### TITLE VI.—*Concerning the officers of the bank.*

#### ARTICLE XLVIII.

The administration of all the affairs of the bank and the control of its operations shall be in charge of the president, assisted by two or more vice-presidents and a secretary, who shall perform such duties as the president may direct.

#### ARTICLE XLIX.

The officers of the bank shall receive, in addition to their salaries, the compensation hereinafter set forth, which shall be divided as prescribed by the general board of directors.

#### ARTICLE L.

The powers of the president of the bank shall be:

1. To direct all the operations of the bank and to give orders and instructions to all the employees thereof who are to take part in said operations.

2. To execute all contracts entered into on behalf of the bank, and to perform all other duties customarily incident to his office.

3. To authenticate by his signature all administrative acts and obligations and documents issued by the bank.

4. To consider and pass upon applications for discounts and loans.

5. To institute and prosecute, in the name of the bank, all judicial proceedings that may be necessary for the collection of debts due to the bank and for the preservation of its rights.

6. To make recommendations to the general board of directors in regard to transactions not provided for by these statutes.

7. To recommend to the general board of directors the appointment of all subordinate employees and servants of the bank.

8. To supervise and direct the conduct of the employees of the bank in the performance of their duties and to temporarily suspend for just cause those who are delinquent therein, except those officials elected by the general board of directors, who can only be suspended by said board.

9. To call the regular general assemblies of the stockholders and such extraordinary general assemblies as may be requested by a sufficient number of the general board of directors.

10. To convene the general board of directors in extraordinary session whenever he deems it necessary, either upon his own motion or at the request of any three members of said board.

11. To preside at general assemblies of the stockholders and meetings of the general board of directors, with a vote.

12. To make visits of inspection to the offices of the bank and to address to the general board of directors such recommendations as he may deem proper concerning its condition.

13. To verify the monthly balance sheet and to sign his approval of the same in the records of the bank.

14. To sign stock certificates and to certify by his signature notes issued payable to bearer.

15. To examine the report to be made to the general assembly relative to the condition of the bank and to approve the same before it is read to the meeting, satisfying himself in advance of the correctness of its contents.

#### ARTICLE LI.

That in the absence or disability of the president, the vice-presidents, in the order designated by the general board of directors, shall exercise the powers herein granted to the president.

#### ARTICLE LII.

In the case of any judicial proceedings other than for the collection of obligations to the bank, the officers must obtain the approval of the general board of directors before acting therein.

#### ARTICLE LIII.

The officers shall be personally accountable to the bank for all operations carried on by them beyond their powers or contrary to the statutes, by-laws, and regulations of the bank.

#### TITLE VII.—*General provisions.*

#### ARTICLE LIV.

It shall be lawful for the bank to purchase, hold, and convey real estate as follows:

1. Such as shall be necessary for its immediate accommodation in the transaction of its business.

2. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

3. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings, under the limitations hereinbefore imposed.

4. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the bank, or shall purchase to secure debts due to it.

The bank shall not purchase or hold real estate in any other case or for any other purpose than as specified in this article, nor shall it hold for a longer period than five years the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any debts due to it.

#### ARTICLE LV.

The profits or net earnings resulting from the operations of the bank, after deducting the expenses of administration and such portion as corresponds to the legal reserve fund, shall be applied as follows: Ten per centum to the executive officers of the bank, to be divided according to regulations prescribed by the General Board of Directors; five per centum to the members of the General Board of Directors, to be distributed in the manner provided in the by-laws. The remaining eighty-five per centum shall belong to the stockholders, but may be added to the regular or special reserve funds or distributed as dividends at a fixed pro rata amount according to the number of shares.

#### ARTICLE LVI.

The distribution of dividends shall be made at least once in each six months when in the judgment of the General Board of Directors earnings justify the declaration of a dividend. Should the profits not exceed six per centum per annum on the par value of each share, the entire amount shall be distributed; should there be an excess over said six per centum it shall be divided, two-thirds to the stockholders and one-third to the legal-reserve fund mentioned in Article XIX until said reserve fund shall amount to not less than twenty-five per centum of the capital stock, after which any surplus shall be divided amongst the stockholders in whole or in part, or may be used for the creation of the voluntary reserve fund also mentioned in said article as the General Board of Directors may deem best.

#### ARTICLE LVII.

Dividends declared and not called for within three years following the date upon which they are due and payable shall draw the interest specified for voluntary deposits in money, commencing from the expiration of said period.

#### ARTICLE LVIII.

No information shall be furnished by the bank concerning the funds in its custody in a current account, or on deposit, belonging to a given person, corporation, or other legal entity, except under authority of an order of the governor-general or of a court with jurisdiction.

## ARTICLE LIX.

That the treasurer of the Philippine Islands, provincial and municipal treasurers, and other authorized public officials shall, from time to time, deposit with the bank and its branches, upon such terms as may be prescribed by the government of the Philippine Islands, such public moneys and trust funds as may be available for this purpose, without discrimination against the bank or in favor of other institutions; but this clause shall not bind such officials to make or maintain such deposits when, in their opinion, it is inadvisable.

## ARTICLE LX.

The balance sheet provided for in article 157 of the Code of Commerce shall be drawn up and published monthly, and the bank and its branches shall make to the treasurer of the Philippine Islands not less than five reports during each and every year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of the bank and attested by the signature of at least three of the directors; which report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the bank at the close of business on any past day specified by said treasurer, and shall transmit such report to him within five days after the receipt of a request or requisition therefor from him; and the report above required, in the same form in which it is made to the treasurer, shall be published, at the expense of the bank, in a newspaper in the city of Manila; and the treasurer of the Philippine Islands shall have power to call for special reports of the condition of the bank and its branches whenever, in his judgment, the same shall be necessary in order to a full and complete knowledge of its condition. Failure to make and transmit such a report shall render the bank liable to a penalty of 100 pesos for each day after five days that said bank or any of its branches shall delay to make and transmit any report as aforesaid; these reports shall be in lieu of the quarterly reports prescribed by section one of Act No. 52 of the Philippine Commission of November 23, 1900, which quarterly reports shall no longer be required from the bank.

## ARTICLE LXI.

That the government of the Philippine Islands renounces all rights which it may have derived under Spanish law to appoint the governor and other officers of the bank or to interfere in any way with its administration, except to make examination of its solvency and supervise its conduct in the interest of the public in the same manner as such examination and supervision are or may be exercised over national banks in the United States and as prescribed by the laws of the Philippine Islands.

## ARTICLE LXII.

That the government of the Philippine Islands renounces all right and title derived from Spanish law and existing statutes of the bank to a loan of any money to the treasury of the Philippine Islands.

TITLE VIII.—*Dissolution and winding up of the bank.*

## ARTICLE LXIII.

The bank shall be dissolved, (1) upon the expiration of its legal term unless legally extended in accordance with the provisions of this act, (2) upon the loss of one-half of the capital subscribed, in which case the general board of directors shall immediately call, within as short a period as possible, an extraordinary general assembly of the stockholders to report the condition of the bank.

The general board of directors may direct that the bank shall continue, in which case it may determine the necessary steps to be taken to fix the status of the bank, provided those present and voting represent two-thirds of the capital.

## ARTICLE LXIV.

A dissolution having been decided upon, the winding up of the bank's affairs shall be in charge of the general board of directors then in office, unless said general board shall determine to appoint receivers, in which case said receivers shall receive such compensation as said general board may direct.

## ARTICLE LXV.

While the winding up of the affairs of the bank continues the powers of the general board shall remain intact.

The board shall specially have the power to approve the accounts of the receivership and to give a discharge.

The amount realized, after paying the debts and expenses of the bank, shall be distributed pro rata among the stockholders.

## ARTICLE LXVI.

That nothing in this act shall be held to prevent the exercise by the governor-general and the treasurer of the Philippine Islands of the powers conferred upon them by Act Number 556 of the Acts of the Philippine Commission, enacted December 9, 1902, or such amendments of that act as may hereafter be enacted.

## ARTICLE LXVII.

(Customary enacting clause, to take effect at once.)

I approve.

WM. H. TAFT,  
*Secretary of War.*

JULY 1, 1907.

Approved:

JEREMIAH J. HARTY,  
*Archbishop of Manila.*

(Through his agent, FESTUS J. WADE.)

ST. LOUIS, MO., *July 10, 1907.*



[PUBLIC RESOLUTION—No. 32.]

JOINT RESOLUTION To authorize and empower the Banco Español de Puerto Rico (Spanish Bank of Porto Rico) to amend its by-laws.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Banco Español de Puerto Rico (Spanish Bank of Porto Rico) be, and the said institution is hereby, authorized and empowered to amend article one of its by-laws, which said by-laws are referred to in, and published with, the royal (Spanish) decree dated May fifth, anno Domini eighteen hundred and eighty-eight, granting a concession to said bank, so as to change its name to that of Bank of Porto Rico (Banco de Puerto Rico) and to substitute for its capital in pesos the equivalent in money of the United States at the ratio established by law, and to amend article thirty-one of said by-laws; so that to be a councilor of said bank it may not be necessary to be a Spaniard, and further to modify and amend said by-laws, but always in accordance with existing law, and subject to the approval of the governor of Porto Rico: *Provided*, That nothing herein contained shall be held to enlarge or to permit the enlargement, in any manner or to any extent, of any of the rights, powers, or privileges granted to said Banco Español de Puerto Rico (Spanish Bank of Porto Rico) by the Government of Spain: *And provided further*, That nothing herein contained shall be held in any wise to limit or curtail any power which the Government or the Congress of the United States possesses in respect of said bank, its powers, privileges, or franchises.

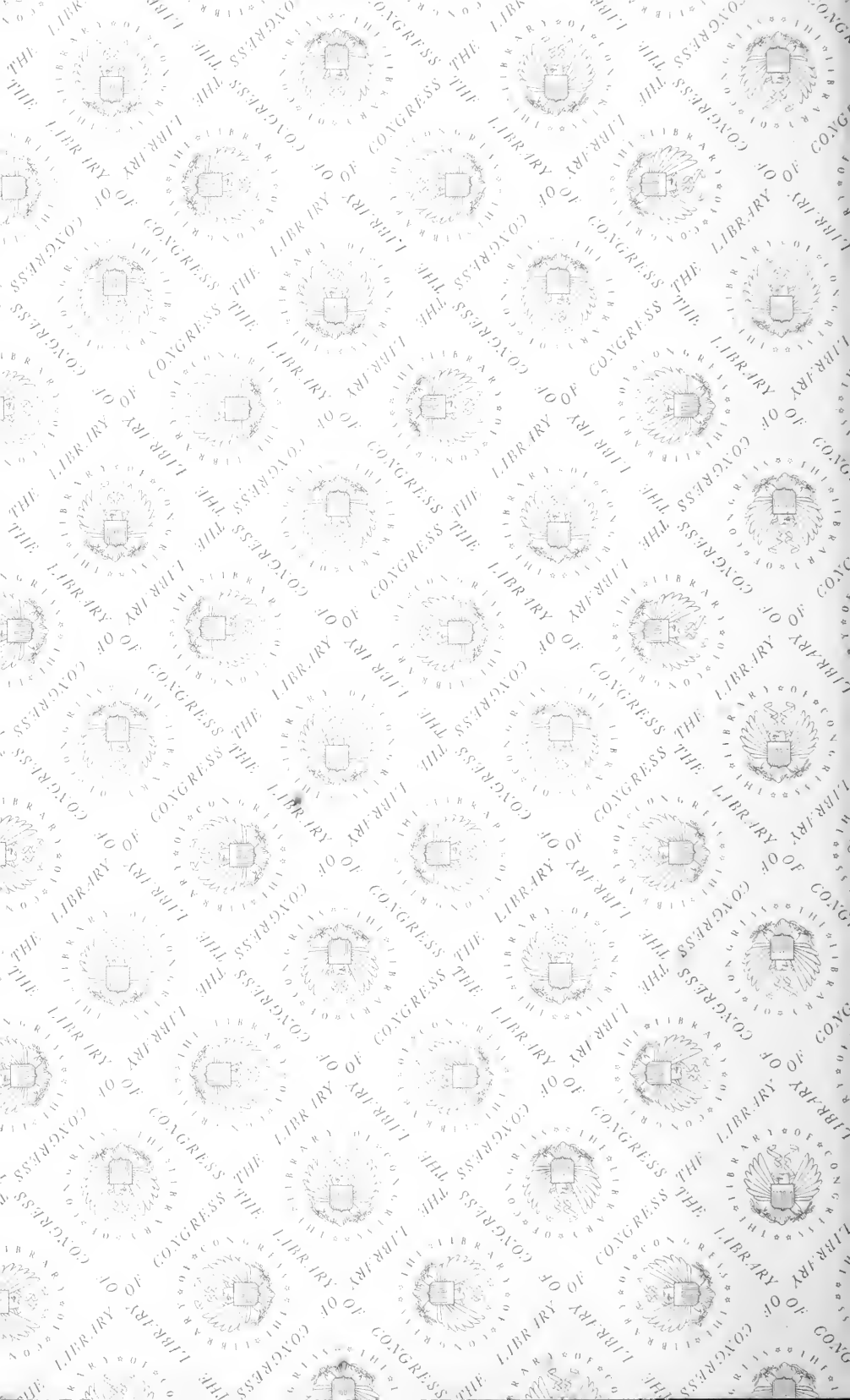
Approved, June 6, 1900.

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